



MANCHESTER  
CITY COUNCIL

# **MANCHESTER CITY COUNCIL**

## **CONSTITUTION OF THE COUNCIL**

**MAY 2013**



# CONSTITUTION OF THE COUNCIL

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# **PART 1**

## **SUMMARY AND EXPLANATION**

# The Council's Constitution

Manchester City Council has agreed a new constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The constitution is divided into 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at Parts 3 to 9 of the Constitution.

## **What's in the Constitution?**

Article 1 of the Constitution sets out the purpose of the Constitution. Articles 2 - 16 explain how the key parts of the Council operate, and the rights of citizens.

These Articles are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council meeting (Article 4)
- Chairing the Council (Article 5)
- Overview and scrutiny of decisions (Article 6)
- The Executive (Article 7)
- Regulatory and other committees (Article 8)
- The Standards Committee (Article 9)
- Area committees (Article 10)
- Joint arrangements (Article 11)
- Officers (Article 12)
- Decision making (Article 13)
- Finance, contracts and legal matters (Article 14)
- Review and revision of the Constitution (Article 15)
- Suspension, interpretation and publication of the Constitution (Article 16)

## **How the Council Operates**

The Council is composed of 96 councillors with one-third elected three years in four. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the Code of Conduct. The Code of Conduct for Members is set out at Part 6 Section A of the Constitution.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year.

## **How decisions are made?**

The Executive is part of the Council which is responsible for most day-to-day decisions. The Executive is made up of a Leader appointed by the Council and a cabinet of up to 9 other councillors (including a Deputy Leader) whom the Leader appoints. When major decisions are to be discussed or made, these are published in the Executive's forward plan in so far as they can be anticipated. If these major decisions are to be discussed with council officers at a meeting of the Executive, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide (except in the case of urgency).

## **Overview and Scrutiny**

There are 6 overview and scrutiny committees which support the work of the Executive and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. Overview and scrutiny committees also monitor the decisions of the Executive. They can 'call-in' a decision which has been made by the Executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Executive reconsider the decision. They may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

## **The Council's Staff**

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. The Member/Officer Relations Protocol which is set out at Part 6 Section F of the Constitution governs the relationships between officers and members of the council.

## **Citizens' Rights**

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individual's legal rights.

Where members of the public use specific council services, for example as a parent of a school pupil or as a council tenant, they have additional rights. These are not covered in the Constitution.

### **Citizens have the right to:**

- vote at local elections if they are registered;

## SUMMARY AND EXPLANATION

- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council, its committees and public meetings of the Executive except where, for example, personal or confidential matters are being discussed;
- inspect agendas and reports except those which contain, for example, personal and confidential matters;
- petition to request a referendum on a mayoral form of Executive;
- participate in the Council's question time and contribute to investigations by the overview and scrutiny committees;
- find out, from the Executive's forward plan, what major decisions are to be discussed by the Executive or decided by the Executive or officers, and when;
- attend meetings of the Executive where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council and Executive;
- exercise their rights under the Freedom of Information Act 2000 to obtain information held by the Council;
- complain to the Council under the Council's own complaints process;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Standards Committee if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work.



# **PART 2**

## **ARTICLES OF THE CONSTITUTION**

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- Article 1.** The Constitution
- Article 2.** Members of the Council
- Article 3.** Citizens and the Council
- Article 4.** The Full Council
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# **Article 1**

## **The Constitution**

### **1.1 Powers of the Council**

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

### **1.2 The Constitution**

This Constitution, and all its appendices, is the Constitution of Manchester City Council.

### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision making;
3. help councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.

### **1.4 Review of the Constitution**

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

## Article 2

### Members of the Council

#### 2.1 **Composition and eligibility**

- (a) **Composition.** The Council comprises 96 members, otherwise called councillors. Three councillors are elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the area or those living or working in the area are eligible to hold the office of councillor.

#### 2.2 **Election and terms of councillors**

**Election and terms.** The whole Council was elected in June 2004. Thereafter, beginning in 2006 there will be an ordinary election of one third of all councillors held on the first Thursday in May each year, except that in 2009 and every fourth year after there will be no regular election. From 2006 the terms of office of councillors (except those elected in by-elections) will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

#### 2.3 **Roles and functions of all councillors**

- (a) **Key roles.** All councillors will:
  - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) bring views of their communities into the Council's decision-making process;
  - (iii) effectively represent the interests of their ward and of individual constituents;
  - (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (v) respond to constituents' enquiries and representations, fairly and impartially;
  - (vi) participate in the governance and management of the Council;
  - (vii) be available to represent the Council on other bodies; and
  - (viii) maintain the highest standards of conduct and ethics.

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### (b) **Rights and duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (iii) Subject to the Code of Conduct for Members, the common law rule against bias and the Council Procedure Rules, councillors have a right to speak and vote on any item before the Council and councillors who are members of a committee have a right to speak and vote on any item before that committee.
- (iv) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

### 2.4 **Conduct**

Councillors will at all times observe the Code of Conduct for Members set out in Part 6 of this Constitution.

### 2.5 **Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 7 of this Constitution.

## Article 3 Citizens and The Council

### 3.1 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more details in the Access to Information Rules in Part 4 Section B of this Constitution:

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information.** Citizens have the right to:
  - (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) attend meetings of the Executive when key decisions are being considered; except where confidential or exempt information is likely to be disclosed; find out from the forward plan what key decisions will be taken by the Executive and when;
  - (iii) see reports and background papers (except where confidential or exempt), and any records of decisions made by the Council and the Executive;
  - (iv) inspect the Council's accounts and make their views known to the external auditor; and
  - (v) exercise their rights under the Freedom of Information Act 2000 to obtain information held by the Council.
- (c) **Participation.** Citizens have the right to submit petitions to the Council in accordance with the Council's petition scheme, and questions to Executive members and contribute to investigations by overview and scrutiny committees.
- (d) **Complaints.** Citizens have the right to complain to:
  - (i) the Council itself under its complaints scheme;
  - (ii) the Ombudsman after using the Council's own complaints scheme;
  - (iii) the Standards Committee about a breach of the Code of Conduct for Members.

### 3.2 Citizens' responsibilities

Citizens must not be violent, abusing or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers.

## **Article 4**

### **The Full Council**

#### **4.1 Meanings**

(a) **Policy Framework.** The policy framework means the following plans and strategies: -

(i) those required by law to be adopted by the Council:

- Sustainable Community Strategy under Section 4 of the Local Government Act 2000;
- Crime and Disorder Reduction Strategy under Sections 5 and 6 of the Crime and Disorder Act 1998;
- Youth Justice Plan under Section 40 of the Crime and Disorder Act 1998.
- Development Plan Documents under Section 15 of the Planning and Compulsory Purchase Act 2004, and Plans and Alterations which together comprise the Development Plan under Part 2 of, and Schedule 8 to, the Planning and Compulsory Purchase Act 2004;
- Licensing Authority Policy Statement under Section 349 of the Gambling Act 2005;

(ii) those other plans and strategies which the Council has determined should be adopted by the Council as part of the Policy Framework:

- The Council's Corporate Plan;
- Code of Corporate Governance;
- Work and Skills Plan;
- Housing Strategy (under Section 87 of the Local Government Act 2003);
- Tenancy Strategy (under Section 150 of the Localism Act 2011);
- The plan and strategy which comprise the Housing Investment Programme;
- Manchester Joint Health and Wellbeing Strategy (under the Health and Social Care Act 2012);
- Manchester Strategy for Improving Outcomes for Children, Young People and their Families;

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- Climate Change Action Plan;
  - Cultural Strategy;
  - Neighbourhood Focus Strategy;
  - Asset Management Plans;
  - ICT Strategy and Information Strategy;
  - Food Enforcement Policy;
  - Licensing Policy Statement (under the Licensing Act 2003)
  - Policies relating to Periodic Electoral Reviews, Local Government Reviews and reviews of parliamentary constituencies
  - Other plans and strategies determined by the Council.
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the determination of the council tax requirement, the setting of the council tax and decisions relating to the control of the Council's borrowing, capital expenditure, treasury management, annual investment strategy and minimum revenue provision strategy.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of disposal of land used for residential purposes where consent is required under sections 32 or 43 of the Housing Act 1985.

### 4.2 Functions of the full Council

Only the Council will exercise the following functions: -

- (a) adopting and changing the Constitution, including the determination of which of the Council's "Local Choice" functions (as defined in The Local Authorities (Functions and Responsibilities) (England) Regulations 2000) should be executive functions and which should be non-executive functions;
- (b) approving, adopting, amending, modifying, revising, varying, withdrawing or revoking (unless, by law, expressly the responsibility of the Executive) any plan or strategy which forms part of the policy framework or budget;
- (c) the approval, for the purposes of public consultation in accordance with regulation 10 or 22 of the Town and County Planning (Development Plans) (England) Regulations 1999, of draft proposals associated with the preparation of alterations to, or the replacement of, a development plan;



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- (d) the approval, for the purpose of its submission to the Secretary of State for independent examination under Section 20 of the Planning and Compulsory Purchase Act 2004, of a development plan document;
- (e) approving any application to the Secretary of State in respect of any Housing Land Transfer;
- (f) determining, as licensing authority, its policy with respect to the exercise of its licensing functions under the Licensing Act 2003, and making revisions to such policy at such times as it considers appropriate;
- (g) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 Section B of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (h) appointing the Leader;
- (i) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (j) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (k) adopting a members' allowances scheme;
- (l) changing the name of the area, conferring the title of honorary alderman or alderwoman or freedom of the borough;
- (m) resolving under Section 166 of the Gambling Act 2005 not to issue casino premises licenses;
- (n) making, amending, revoking, re-enacting or adopting bye-laws and promoting or opposing the making of local legislation or personal Bills;
- (o) making requests for single-member electoral areas;
- (p) passing a resolution to change a scheme for elections;
- (q) making requests for single-member electoral areas;
- (r) deciding whether to make proposals for a change in governance arrangements [*as to form of executive*], deciding whether the change should be subject to approval in a referendum and passing a resolution to make a change;
- (s) deciding the term of office of the Leader;
- (t) including a provision in executive arrangements to remove the executive leader by resolution and passing such a resolution;

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- (u) making an order giving effect to recommendations made in a community governance review;
- (v) duty to make a change in governance arrangements;
- (w) all local choice functions set out in Part 3 of this Constitution, which the Council has decided should be undertaken by itself (including approving the draft local area agreement for submission under Section 106(1) of the Local Government and Public Involvement in Health Act 2007);
- (x) preparing and amending the annual Pay Policy Statement under Section 38 of the Localism Act 2011;
- (y) making determinations in relation to the remuneration of posts whose remuneration is, or is proposed to be, or would become, £100,000 p.a. or above, and severance packages of £100,000 and above.
- (z) adopting a Code of Conduct for elected and co-opted members of the Council under section 27 of the Localism Act 2011; and
- (za) making or revising a council tax reduction scheme under section 13 A (2) of the Local Government Finance Act 1992.
- (zb) all other matters which, by law, must be reserved to Council.

### 4.3 Council meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings;

and they will be conducted in accordance with the Council Procedure Rules in Part 4 Section A of this Constitution.

### 4.4 Responsibility for functions

The Council will allocate responsibilities for and maintain a record in Part 3 of this Constitution setting out the responsibilities for the discharge of: -

- (a) the Council's functions which are not the responsibility of the Executive;
- (b) local choice functions which are not the responsibility of the Executive.

## **Article 5**

### **Chairing The Council**

#### **5.1 Role and function of the Lord Mayor.**

The Lord Mayor and in his/her absence, the Deputy Lord Mayor will have the following roles and functions:

1. to uphold and promote the purposes of the Constitution;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
3. to endeavour to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive are able to hold the Executive to account;
4. to promote public involvement in the Council's activities;
5. to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

5.2 The Lord Mayor and Deputy Lord Mayor will be elected annually at the Annual Meeting of the Council.

5.3 Without prejudice to 5.2 above, the Leaders of the political groups represented on the Council may agree a protocol for determining which political group will provide the Lord Mayor and Deputy Lord Mayor in future years.

## Article 6

### Overview and Scrutiny Committees

#### 6.1 Terms of Reference

The Council will appoint the overview and scrutiny committees set out below to discharge the functions conferred by section 9F of the Local Government Act 2000.

#### Committee

Young People and Children

Communities

Neighbourhoods

Economy

Health

Finance

The specific remit and terms of reference of the above Committees are set out in Part 3 Section E of this Constitution.

#### 6.2 General Role

Within their terms of reference, overview and scrutiny committees will:

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the full Council and/or the Executive and/or any joint or area committee in connection with the discharge of any functions;
- (iii) make reports and/or recommendations to the full Council and/or the Executive on any matter affecting the area or its inhabitants;
- (iv) exercise the right to call-in decisions made but not yet implemented by the Executive and to recommend that the decision be reconsidered by the person who made it;
- (v) arrange for its function under (i) above as regards any decision to be exercised by the full Council;
- (vi) require members of the Executive or officers of the authority to attend before it to answer questions, and invite other persons to attend;

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- (vii) appoint one or more sub-committees and arrange for the discharge of any of its functions by such a sub-committee.

### 6.3 Specific functions

- (a) **Policy development and review.** Overview and scrutiny committees may:
  - (i) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
  - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
  - (iii) consider and implement mechanisms to encourage and enhance community participation in the development off policy options;
  - (iv) question members of the Executive and/or committees and chief officers about their views on issues and proposals affecting the area; and
  - (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (b) **Scrutiny.** Overview and scrutiny committees may:
  - (i) review and scrutinise the decisions made by and performance of the Executive and/or committees and council officers both in relation to individual decisions and over time;
  - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - (iii) question members of the Executive and/or committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
  - (iv) make recommendations to the Executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
  - (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance, and question and gather evidence from any person (with their consent).
- (c) **Support.** Strategic directors will provide the necessary support for overview and scrutiny committees.

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- (d) **Annual report.** Overview and scrutiny committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

### 6.4 Crime and Disorder Committee

- (a) One overview and scrutiny committee will be designated as the Crime and Disorder Committee. Its responsibilities will include:-

- to review or scrutinise decisions or actions taken in connection with the discharge by the responsible authorities of their crime and disorder functions;
- to make reports and recommendations to the Council or Executive with respect to the discharge of those functions.

- (b) **“Responsible authorities” include: -**

- Manchester City Council;
- every provider of probation services operating within Manchester in pursuance of arrangements under Section 3 of the Offenders Management Act 2007 which provide for it to co-operate with responsible authorities;
- the Chief Constable of Greater Manchester Police;
- the Greater Manchester Fire and Civil Defence Authority;
- every Clinical Commissioning Group (CCG), the whole or any part of whose area lies within the City of Manchester.

- (c) **“Crime and Disorder Functions” are:-**

- reducing crime and disorder in the area (including anti-social and other behaviour adversely affecting the local environment); and
- combating the misuse of drugs, alcohol and other substances in the area and reduction of re-offending in the area.

### 6.5 Health Scrutiny Committee

One overview and scrutiny committee will be designated as the Health Scrutiny Committee to discharge the health scrutiny functions of the Council under Regulations 21 to 23, 26 and 27 of The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013. Its responsibilities will include:-

- To review and scrutinise any matter relating to the planning, provision and operation of the health service in Manchester City Council's area.
- To make reports and recommendations to relevant NHS bodies and health service providers.

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### 6.6 Proceedings of overview and scrutiny committees

Overview and scrutiny committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 Section E of this Constitution.

### 6.7 Joint Co-ordinating Panel

#### (a) **Role**

There will be a Joint Co-ordinating Panel whose role will be: -

- to act as a mechanism to allow for dialogue between the Executive and the overview and scrutiny committee;
- to assist in forward planning of the work programmes of the Executive and the overview and scrutiny function;
- to overview the Council's best value programme to consider proposals for the use of the overview and scrutiny budget.

#### (b) **Membership**

The Joint Co-ordinating Panel will comprise the Chairs of the Overview and Scrutiny Committees, the Leader and two other members of the Executive.

### 6.8 **Chairs**

Chairs of overview and scrutiny committees will receive a standing invitation to attend public meetings of the Executive and receive the relevant papers, including parts of the meeting where exempt matters are being discussed.

### 6.9 **Scrutiny Officer**

The Council will designate one of their officers to act as the Council's Scrutiny Officer who will discharge the following functions:

- (a) to promote the role of the Council's overview and scrutiny committees;
- (b) to provide support for the Council's overview and scrutiny committees and the members of those committees;
- (c) to provide support and guidance to –
  - (i) members of the Council;
  - (ii) members of the Executive; and
  - (iii) officers of the Council,

in relation to the functions of the Council's overview and scrutiny committees.

## Article 7

### The Executive

#### 7.1 Role

The Executive Leader ("the Leader") and the Executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

#### 7.2 Form and composition

The Executive will consist of the Leader together with between two and nine councillors appointed to the Executive by the Leader (one of whom will be appointed by the Leader to act as Deputy Leader).

#### 7.3 Leader

- (a) The Leader will be a councillor elected to the position of Leader by the Council.
- (b) The Council will decide the term of office of the Leader which must expire no later than the day on which the Council holds its first annual meeting after the Leader's normal day of retirement as a councillor.
- (c) The Leader's term of office will end on the day determined by the Council under (b) above, unless before that date -
  - (i) he/she resigns from the office;
  - (ii) he/she is no longer a councillor for any other reason; or
  - (iii) he/she is removed by resolution of Council provided that no such resolution may be moved unless it is delivered to the Chief Executive 14 days before the meeting at which it is to be debated and signed by 50% of the members (for the time being) of the Council.
- (d) If there is a vacancy in the office of Leader as a result of a resolution under 7.3(c) (iii) above, the Council shall elect another councillor as Leader at the meeting which the Leader is removed from office or at the next subsequent meeting of the Council.
- (e) If there is a vacancy in the office of Leader for any other reason, the Council shall elect another councillor as Leader at the first meeting after the vacancy occurs, provided that if the vacancy occurs after the issue of the summons and agenda for the meeting the election shall take place at the next subsequent meeting.

#### 7.4 Deputy Leader



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- (a) The Leader will appoint one of the members of the Executive to act as Deputy Leader. The Leader must give written notice of such appointment to both the person who he/she is appointing as Deputy Leader and the Monitoring Officer. The appointment of the Deputy Leader will take effect on receipt of the Leader's written notice by both the person who the Leader is appointing as Deputy Leader and the Monitoring Officer. The Monitoring Officer will keep a written record of the appointment of the Deputy Leader and the Leader will report the appointment to Council and the Executive at the earliest opportunity.
- (b) The Deputy Leader will hold office until the end of the Leader's term of office unless before that date -
- (i) he/she resigns from the office; or
  - (ii) he/she is no longer a councillor for any other reason; or
  - (iii) he/she is no longer a member of the Executive; or
  - (iv) he/she is removed by the Leader who must give written notice of such removal to both the Deputy Leader and to the Monitoring Officer. The removal of the Deputy Leader will take effect on receipt of the Leader's written notice by both the Deputy Leader and the Monitoring Officer. The Monitoring Officer will keep a written record of any removal of the Deputy Leader and the Leader will report any such removal to the Council and the Executive at the earliest opportunity.
- (c) Where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another person in his/her place. The Leader must give written notice of such appointment to both the person he/she is appointing as Deputy Leader and to the Monitoring Officer. The appointment of the Deputy Leader will take effect on receipt of the Leader's written notice by both the person who the Leader is appointing as Deputy Leader and the Monitoring Officer. The Monitoring Officer will keep a written record of the appointment of the Deputy Leader and the Leader will report the appointment to Council and the Executive at the earliest opportunity.
- (d) If for any reason:
- (i) the Leader is unable to act; or
  - (ii) the office of Leader is vacant;
- the Deputy Leader will act in his/her place.
- (e) If for any reason:
- (i) the Leader is unable to act, or the office of Leader is vacant; and
  - (ii) the Deputy Leader is unable to act, or the office of Deputy Leader is vacant;
- the Executive must act in the Leader's place, or arrange for an Executive member to act in his/her place.

## ARTICLES OF THE CONSTITUTION

### 7.5 Other Executive members

- (a) In addition to the Deputy Leader, the Leader will appoint between one and eight further Executive Members to hold such Portfolios as the Leader shall determine. When appointing an Executive Member the Leader must give written notice of the appointment and of the Portfolio to both the person who he/she is appointing as an Executive Member and to the Monitoring Officer. The appointment of the Executive Member will take effect on receipt of the Leader's written notice by both the person who the Leader is appointing as an Executive Member and the Monitoring Officer. The Monitoring Officer will keep a written record of the appointment of an Executive Member and the Leader will report the appointment of an Executive Member and their Portfolio to Council and the Executive at the earliest opportunity.
- (b) An Executive member will hold office until the end of the Leader's term of office unless before that date -
  - (i) he/she resigns from the office; or
  - (ii) he/she is no longer a councillor for any other reason; or
  - (iii) he/she is removed by the Leader who must give written notice of such removal to both the Executive Member and to the Monitoring Officer. The removal of an Executive Member will take effect on receipt of the Leader's written notice by both the Executive Member and the Monitoring Officer. The Monitoring Officer will keep a written record of any removal of an Executive Member and the Leader will report any such removal to Council and the Executive at the earliest opportunity.

### 7.6 Remits of Executive Members

- (a) The Council shall designate one of the members of the Executive as the lead member for Children's Services for the purposes of Section 19 of the Children Act 2004.
- (b) Within the above framework and any statutory requirements, the Leader will determine the detailed remits of Executive Members (including the Deputy Leader) and report such detailed remits (and any changes thereto) to the Executive Members concerned, the Monitoring Officer, Council and the Executive at the earliest opportunity.

### 7.7 Assistants to Executive Members

The Leader may appoint other councillors to act as Assistants to those Executive members with a specific Portfolio, provided that there shall be no more than seven such Assistants. A Councillor may not be an Assistant in respect of the same Portfolio for more than 4 years. Assistants to Executive members are not members of the Executive and may not serve on Overview and Scrutiny Committees.

### 7.8 Standing Consultative Panel

## ARTICLES OF THE CONSTITUTION

There will be a Standing Consultative Panel consisting of no more than 15 councillors with a standing invitation to attend public meetings of the Executive, including parts of the meeting where exempt matters are being discussed. The Panel will include members of opposition political groups. Members of the Panel will be entitled to speak (but not vote) at meetings of the Executive.

The representation of the opposition political groups on the Panel will be calculated in accordance with the following formula:

$$X \times \frac{25}{96} = Y$$

Where -

*X = the number of members of the opposition political group on the Council, and*

*Y = the entitlement to representation of that group on the Panel (rounded up or down to the nearest whole number)*

### 7.9 Proceedings of the Executive

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 Section D of this Constitution.

### 7.10 Responsibility for functions

- (a) The Leader of the Council may determine to exercise any of the executive functions of the Council personally, or may arrange for the exercise of any of the Council's executive functions by:
- (i) the Executive;
  - (ii) another member of the Executive;
  - (iii) a committee of the Executive
  - (iv) an officer of the Council
  - (v) an area committee
- (b) The Monitoring Officer will maintain a Register of the Delegation of Executive Functions and will record any alterations to the allocation of responsibility for the discharge of executive functions.
- (c) At the earliest opportunity following the election of a Leader, the Leader will review the allocation of responsibilities for the discharge of executive functions recorded in Part 3 of this Constitution. Any alterations that the Leader wishes to make to the allocation of responsibility for the discharge of executive functions will be dealt with in accordance with Executive Procedure Rule 1.4 in Part 4, Section D of the Constitution.

## **Article 8**

### **Regulatory and other Committees**

#### **8.1 Regulatory and other ordinary committees**

The Council will appoint the committees set out below to discharge the functions described in Part 3 of this Constitution.

- Planning and Highways Committee
- Licensing and Appeals Committee
- Licensing Committee
- Licensing Policy Committee
- Employee Appeals Committee
- Art Galleries Committee
- Constitutional and Nomination Committee
- Personnel Committee
- Audit Committee

#### **8.2 Health and Wellbeing Board**

(a) The Council will establish a Health and Wellbeing Board to discharge the functions described in Part 3 of this Constitution.

(b) The Health and Wellbeing Board will be composed of:

- The Leader of the Council;
- At least one councillor appointed by the Leader;
- The Director of Adult Social Services;
- The Director of Children's Services;
- The Director of Public Health;
- One representative appointed by the Local Healthwatch organisation;
- One representative appointed by the North Manchester Clinical Commissioning Group (CCG);
- One representative appointed by the Central Manchester CCG;
- One representative appointed by the South Manchester CCG;
- One representative appointed by the NHS Commissioning Board;
- Such other persons, or representatives of such persons, as the Council considers appropriate (provided that in the case of appointments after the Board is established the Council first consults the Board);
- Such additional persons as the Board considers appropriate.

#### **8.3 Advisory Committees**

The Council may appoint an advisory committee to advise the Council or the Executive in relation to any matter relating to the discharge of their functions.

## Article 9

### The Standards Committee

#### 9.1 Standards Committee

The Council meeting will establish a Standards Committee.

#### 9.2 Composition

##### a) Membership

The Standards Committee will be composed as follows:

- Six elected Members of Manchester City Council (none of whom may be the leader of any political group and no more than one of whom may be a member of the Executive);
- One Member of Ringway Parish Council who is not a Member of Manchester City Council (the Parish Member); and
- Two people appointed by the Council who are not councillors or officers of the Council or any other body having a standards committee (Independent Members).

##### b) Independent Members

Independent Members will not be entitled to vote at meetings;

##### c) Parish Member.

The Parish Member must be present when matters relating specifically to Ringway Parish Council or its Members are being considered.

##### d) Chairing the Committee.

The Council will appoint one of the Independent Members as Chair of the Committee. In the absence of the appointed Chair, the Committee will be chaired by the other Independent Member, and in the absence of both Independent Members will be chaired as determined by the Committee.

##### e) Quorum.

The quorum for the Standards Committee shall be three (of whom at least one must be an Independent Member, provided that there is an Independent Member who is not prevented or restricted from participating by virtue of the Council's Code of Conduct).

##### f) Questions at Council.

## ARTICLES OF THE CONSTITUTION

The Committee will appoint one of its elected Members for the purpose of answering questions at Council on the discharge of the Committee's functions.

### 9.3 Role and Functions

The Council has delegated to the Standards Committee the following powers to deal with matters of conduct and ethical standards, and the Council's Standards Committee has the following role and functions:

- a) Promoting and maintaining high standards of conduct by Councillors, Co-opted Members and church and parent governor representatives;
- b) Assisting Councillors, Co-opted Members and church and parent governor representatives to observe the Council's Code of Conduct for Members;
- c) Advising the Council on the adoption, revision or replacement of the Council's Code of Conduct for Members and the Council's Arrangements for dealing with Complaints that Council Members have failed to comply with the Council's Code of Conduct for Members ("the Council's Arrangements");
- d) Monitoring the operation of the Council's Code of Conduct for Members and the Council's Arrangements;
- e) Advising, training or arranging to train Councillors and Co-opted Members and church and parent governor representatives on matters relating to the Council's Code of Conduct for Members and other issues relating to Standards and Conduct;
- f) To determine in accordance with the Council's Arrangements whether a Council Member has failed to comply with the Council's Code of Conduct for Members and, if so, to determine what action (if any) to take;
- g) To take decisions in respect of a Council Member who is found on a hearing held in accordance with the Council's Arrangements to have failed to comply with the Council's Code of Conduct for Members ("the Subject Member"), such actions to include:–
  - (i) Publication of the findings of the Standards (Hearing) Sub-Committee in respect of the Subject Member's conduct;
  - (ii) Reporting the findings of the Standards (Hearing) Sub-Committee to Council for information;
  - (iii) Recommendation to Council that the Subject Member should be censured;
  - (iv) Recommendation to the Subject Member's Group Leader (or in the case of ungrouped Members to Council) that the Subject Member should be removed from any or all Committees or Sub-Committees of the Council for a recommended period;

## ARTICLES OF THE CONSTITUTION

- (v) Recommendation to the Leader that the Subject Member should be removed from the Executive, or removed from their Portfolio responsibilities;
  - (vi) Instructing the Monitoring Officer to arrange training for the Subject Member;
  - (vii) Recommendation to Council that the Subject Member should be removed from all appointments to which the Subject Member has been appointed or nominated by the Council;
  - (viii) Withdrawal of facilities provided to the Subject Member by the Council, such as a computer, website and/or e-mail and Internet access; or
  - (ix) Placing such restrictions on the Subject Member's access to Council staff, buildings or parts of buildings as may be reasonable in the circumstances.
- h) To grant dispensations from section 31(4) of the Localism Act 2011 (after consultation with one of the Council's Independent Persons) if having had regard to all relevant circumstances, the Standards Committee: -
- (i) considers that granting the dispensation is in the interests of persons living in the Council's area, or
  - (ii) considers that it is otherwise appropriate to grant a dispensation.
- i) To determine appeals against the Monitoring Officer's decision on the grant of dispensations.
- j) to deal with any reports from the Monitoring Officer on any matter which is referred to it for determination;
- k) to deal with reports of the Monitoring Officer regarding breaches of the protocols/guidance to Members accompanying the Council's Code of Conduct for Members which do not in themselves constitute a breach of that Code;
- l) to report annually to Council on ethical governance within the City Council.

### 9.4 **Additional Roles of Standards Committee**

- a) to overview the Council's whistle blowing policy;
- b) to consider and determine applications for exemptions from political restriction;
- c) to give directions to the Council requiring it to include a post on its list of politically restricted posts;

## ARTICLES OF THE CONSTITUTION

- d) to consider the Code of Corporate Governance and the Annual Governance Statement.

### 9.5 **Delegation**

The Standards Committee may appoint one or more sub-committees for the purpose of discharging any of the Committee's functions. Any such sub-committee shall be chaired by an independent member and shall have a quorum of three.



## Article 10

### Area Committees

#### 10.1 Area Committees

The Council and the Leader may appoint Area Committees as they think fit, if they are satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

#### 10.2 Form, composition and function

##### (a) Table of Area Committee(s)

The Council and the Leader will appoint the Area Committee(s) as set out in the first column of the table below, composed as set out in the second column of that table.

Name of Committee	Composition
Wythenshawe Area	Councillors representing the following wards:  Baguley, Brooklands, Northenden, Sharston, Woodhouse Park

##### (b) Terms of Reference and Delegations

The terms of reference of, and the delegations to, the Area Committee(s) are set out in Part 3 of this Constitution.

#### 10.3 Conflicts of interest - membership of Area Committees and Overview and Scrutiny Committees

##### (a) Conflict of interest

If an overview and scrutiny committee is scrutinising specific decisions or proposals in relation to the business of the Area Committee of which the Councillor concerned is a member, then the Councillor may not speak or vote at the overview and scrutiny committee meeting unless a dispensation to do so is given by the Standards Committee, when permitted under the Local Government Act 2000.

##### (b) General policy reviews

Where an overview and scrutiny committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

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### 10.4 **Area Committees - access to information**

Area Committees will comply with the Access to Information Rules in Part 4 Section B of this Constitution.

Agendas and notices for Area Committee meetings which deal with both functions of the Executive and functions which are not the responsibility of the Executive will state clearly which items are which.

### 10.5 **Executive members on Area Committees**

A member of the Executive may serve on an Area Committee if otherwise eligible to do so as a councillor.

## Article 11

### Joint Arrangements

#### 11.1 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities to exercise functions which are not executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities. The political balance requirements apply to such appointments if the Council has 3 or more seats on the joint committee.
- (b) The Leader or the Executive may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Where (b) above applies, except as set out below, the Leader or the Executive may only appoint Executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Leader or the Executive may appoint members to a joint committee from outside the Executive where -
  - the joint committee is discharging a function in relation to five or more authorities, or
  - the function discharged is a function which is required by statute to be discharged by a joint committee, or
  - the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area;

In these circumstances the political balance requirements do not apply to such appointments.

#### 11.2 Access to information

- (a) The Access to Information Rules in Part 4 Section B of this Constitution apply.
- (b) If all the members of a joint committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
- (c) If the joint committee contains members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

## ARTICLES OF THE CONSTITUTION

### 11.3 Delegation to and from other local authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (b) The Leader or the Executive may delegate executive functions to another local authority or the Executive of another local authority.

### 11.4 Contracting out

The Council (for functions which are not executive functions) and the Leader or the Executive (for executive functions) may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

### 11.5 Joint Committees

- (a) Joint arrangements will include the Council's participation in the following joint committees:
  - AGMA Executive Board, and its Commissions and sub-committees (including the Statutory Functions Committee)
  - Transport for Greater Manchester Committee
  - AGMA Joint Scrutiny Pool
  - Joint Committee for the Joint Waste Development Plan Document for Greater Manchester
  - National Parking Adjudication Service Joint Committee
  - Bus Lane Adjudication Service Joint Committee
  - Mersey Valley Joint Committee
  - Manchester Area Pollution Advisory Council (MAPAC)
  - Greater Manchester Police and Crime Panel
- (b) The AGMA Operating Agreement and Constitution is set out in Part 9 of this Constitution.

## Article 12 Officers

### 12.1 Management structure

- (a) **General.** The Council may engage such staff (referred to as officers), as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council will engage persons, who will be designated chief officers and shall include a Director of Children’s Services and a Director of Adult Social Services, for the posts designated as Chief Officers in Part 8 of this Constitution:
- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.** The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
City Solicitor	Monitoring Officer
City Treasurer	Chief Finance Officer

Such posts will have the functions described in Article 12.2 -12.4 below.

- (d) **Director of Public Health. The Council, acting jointly with the Secretary of State will appoint a Director of Public Health.**
- (e) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 8 of this Constitution.

### 12.2 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

### 12.3 Functions of the Monitoring Officer

## ARTICLES OF THE CONSTITUTION

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for inspection by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision-making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Executive in relation to an executive function - if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee. The Council has delegated to the Monitoring Officer the following powers to deal with matters of conduct and ethical standards:
  - (i) To act as the Council's Proper Officer to receive complaints that Council Members have failed to comply with the Council's Code of Conduct for Members;
  - (ii) To determine, after consultation with the Independent Person and in accordance with the Council's Arrangements for dealing with Complaints that Council Members have failed to comply with the Council's Code of Conduct for Members ("the Council's Arrangements") whether to reject, informally resolve or investigate a complaint;
  - (iii) To seek informal resolution of complaints that Council Members have failed to comply with the Council's Code of Conduct for Members wherever practicable;
  - (iv) To refer decisions dealing with a complaint against a Council Member to the Standards Committee in exceptional circumstances;
  - (v) To arrange for the appointment of an Investigating Officer to investigate a complaint where the Monitoring Officer (in consultation with an Independent Person) determines that a complaint merits formal investigation;
  - (vi) To issue guidance to be followed by an Investigating Officer on the investigation of complaints;
  - (vii) To confirm, after consultation with an Independent Person and in accordance with the Council's Arrangements, an Investigating Officer's finding of no failure to comply with the Council's Code of Conduct for Members;
  - (viii) Where an Investigating Officer's report finds that the Subject Member has failed to comply with the Council's Code of Conduct for Members, to determine, after consultation with the Independent Person and in

## ARTICLES OF THE CONSTITUTION

accordance with the Council's Arrangements, either to seek a local resolution or to send a matter for local hearing.

- (ix) To grant dispensations from section 31(4) of the Localism Act 2011 if, having had regard to all relevant circumstances, the Monitoring Officer:-
- considers that without the dispensation the number of persons prohibited by section 31(4) of the Localism Act 2011 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
  - considers that without the dispensation each Member of the Council's Executive would be prohibited by section 31(4) of the Localism Act 2011 from participating in any particular business to be transacted by the Executive; or
  - considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.
- (d) Maintaining the Council's Register of Members' Interests. The Monitoring Officer will establish and maintain the Council's Register of Interests of Members and Co-Opted Members as required by section 29(1) of the Localism Act 2011 and ensure that it is available for inspection and published on the Council's website as required by the Act;
- (e) Proper officer for access to information. The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publically available as soon as possible in accordance with the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012;
- (f) Advising whether executive decisions are within the budget and policy framework. The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (g) Providing advice. The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (h) Freedom of Information Act. The Monitoring Officer will determine exemptions under Section 36 of the Freedom of Information Act 2000 relating to information which is prejudicial to the effective conduct of public affairs.
- (i) Restrictions on posts. The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

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### 12.4 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision-making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Executive in relation to an executive function- and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss of deficiency or if the Council is about to enter an item of account unlawfully. S/he will also make a report under this section if it appears that the expenditure of the authority (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to meet that expenditure.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.

### 12.5 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in the opinion of these officers sufficient to allow their duties to be performed.

### 12.6 Conduct

Officers will comply with the Code of Conduct for Employee's set out in Part 6 Section E of this Constitution.

### 12.7 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 4 Section F of this Constitution.



## **Article 13**

### **Decision Making**

#### **13.1 Responsibility for decision making**

- (a) The Council will issue and keep up to date a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.
- (b) The Leader of the Council may determine to exercise any of the executive functions of the Council personally, or may arrange for the exercise of any of the Council's executive functions by:
  - (i) the Executive;
  - (ii) a member of the Executive;
  - (iii) a committee of the Executive;
  - (iv) an officer of the Council;
  - (v) an area committee.

The Monitoring Officer will maintain a Register of the Delegation of Executive Functions.

#### **13.2 Principles of decision making**

Decisions of the Council should be made in accordance with the following principles:

- (a) Proportionality (meaning the action must be proportionate to the results to be achieved);
- (b) Due consultation (including the taking of relevant professional advice);
- (c) Respect for human rights;
- (d) Presumption in favour of openness;
- (e) Clarity of aims and desired outcomes;
- (f) Due consideration to be given to alternative options;
- (g) Reasons for the decisions to be given provided there is no breach of confidentiality.

#### **13.3 Types of decision**

## ARTICLES OF THE CONSTITUTION

### (a) **Decisions reserved to full Council**

Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.

### (b) **Key decisions**

- (i) A “key decision” means an executive decision which is likely -
  - (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates (as defined in rule 16.2 of the Access to Information Procedure Rules at Part 4 Section B of this Constitution); or
  - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority.
- (ii) A decision taker may only make a key decision in accordance with the requirements of the Access to Information Procedure Rules set out in Part 4 Section B of this Constitution.

### 13.4 **Decision making by the full Council**

Subject to Article 13.8, the Council meeting will follow the Council Procedure Rules set out in Part 4 Section A of this Constitution when considering any matter.

### 13.5 **Decision making by the Executive**

Subject to Article 13.8, the Executive will follow the Executive Procedure Rules set out in Part 4 Section D of this Constitution when considering any matter.

### 13.6 **Decision making by overview and scrutiny committees**

Overview and scrutiny committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 Section E of this Constitution when considering any matter.

### 13.7 **Decision making by other committees and sub-committees established by the Council**

Subject to Article 13.8, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 Section A of this Constitution as apply to them.

### 13.8 **Decision making by Council bodies acting as tribunals**

The Council, the Executive, any committee, sub-committee, councillor or officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal

## ARTICLES OF THE CONSTITUTION

responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

### 13.9 **Decision making by Officers**

Officers will exercise their delegated authority in accordance with the Scheme of Delegation to Officers, the Register of the Delegation of Executive Functions and other provisions of this Constitution.

## Article 14

### **Finance, Contracts and Legal Matters**

#### **14.1 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Rules set out in Part 5 of this Constitution.

#### **14.2 Contracts**

Contracts made by the Council will comply with the Contract Procurement Rules set out in Part 5 of this Constitution.

#### **14.3 Legal proceedings**

The City Solicitor is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the City Solicitor considers that such action is necessary to protect the Council's interests.

#### **14.4 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the City Solicitor or some other person duly authorised by the Council, the Executive or the City Solicitor, unless any enactment otherwise authorises or requires.

Any contract with a value exceeding £30,000 entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by two duly authorised officers of the authority or made under the common seal of the Council attested by an authorised officer. Any contract with a value exceeding £75,000 must be made under the Common Seal of the Council attested by an authorised officer.

#### **14.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the City Solicitor. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the City Solicitor should be sealed. The affixing of the Common Seal will be attested by the City Solicitor or some other person authorised by him/her.

## Article 15

### Review and Revision of the Constitution

#### 15.1 Duty to monitor and review the constitution

- (a) The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- (b) A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:
  - 1. observe meetings of different parts of the member and officer structure;
  - 2. examine the audit trail relating to a sample of decisions;
  - 3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
  - 4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.
- (c) Before making any recommendations to amend the Constitution the Monitoring Officer may consult the Constitutional and Nomination Committee.

#### 15.2 Changes to the Constitution

##### (a) **Approval**

Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer and in accordance with Rules 18.5 and 18.6 of the Council Procedure Rules in Part 4 Section A of this Constitution.

##### (b) **Change from a Leader and Cabinet form of Executive to Mayoral form of Executive, or vice versa.**

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a referendum.

## **Article 16**

# **Suspension, Interpretation and Publication of the Constitution**

### **16.1 Suspension of the Constitution**

#### **(a) Limit to suspension**

The Articles of this Constitution may not be suspended. The Rules specified below may be suspended to the extent permitted within those Rules and the law.

#### **(b) Rules capable of suspension.**

The following Rules may be suspended in accordance with Article 16.1(a): -  
Council Procedure Rules

#### **(c) Procedure to Suspend**

The procedure to suspend rules is set out in Rule 2.1 of the Council Procedure Rules in Part 4 Section A of this Constitution. A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved.

### **16.2 Interpretation**

- (a) Except as otherwise provided and subject to (b) below, the ruling of the City Solicitor on the interpretation of the Constitution shall be final.
- (b) In relation to proceedings of Council, the ruling of the Lord Mayor as to the construction or application of this Constitution shall not be challenged at any meeting of the Council.

### **16.3 Publication**

- (a) The Monitoring Officer will give a printed copy of this Constitution to each member of the authority as soon as practicable after the delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Monitoring Officer will ensure that copies are available for inspection at Council offices, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Monitoring Officer will ensure that the Constitution is accessible via the Council's website and is updated as necessary.

## **Schedule 1**

### **Description of Executive Arrangements**

The following parts of this Constitution constitute the Executive arrangements:

1. Article 6 (Overview and Scrutiny committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Executive) and the Executive Procedure Rules;
3. Article 10 (Area Committees) insofar as any Committee is determining matters delegated to them by the Leader or the Executive;
4. Article 11 (Joint arrangements) insofar as any joint committee is determining matters delegated to it by the Leader or the Executive;
5. Article 13 (Decision making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Functions insofar as the function is the responsibility of the Executive).

# **PART 3**

## **RESPONSIBILITY FOR FUNCTIONS**



# INTRODUCTION

Part 3 of the Constitution sets out who is responsible for the various functions of the Council.

The Local Government Act 2000 divides the Council's functions into the following categories:

## 1. Executive Functions

By virtue of section 13(2) of the Local Government Act 2000, every Council function is an "executive" function (i.e. the function is to be the responsibility of the Executive), unless a statute says differently or the function is identified as a "non-executive" function by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

The Leader of the Council may determine to exercise any of the "executive" functions of the Council personally, or may arrange for the exercise of any of the Council's "executive" functions by:

- (i) the Executive; or
- (ii) another member of the Executive; or
- (iii) a committee of the Executive; or
- (iv) an officer of the Council; or
- (v) an area committee.

## 2. Council (Non-Executive) Functions

"Non-executive" functions are the responsibility of the Council, which may decide to delegate their discharge to a Council Committee, Joint Committee or Area Committee. They can also be delegated to a Council Sub-Committee or a council officer.

There are some non-executive functions that can only be the responsibility of the full Council and cannot be delegated to another body. These are set out in Part 2, Article 4.2 of this Constitution.

## 3. Local Choice Functions

Some Council functions are "local choice functions". This means that the Council can decide whether the function is to be the responsibility of the Executive (an "executive function") or the responsibility of the Council (a "non-executive" function). Part 3, Section A sets out these "local choice functions", designates them as "executive" or "non-executive", and shows who is authorised to discharge them.

# CONTENTS

- Section A.** Local Choice Functions
- Section B.** Executive Functions
- Section C.** Council (Non-Executive) Functions
- Section D.** Area Committees
- Section E.** Overview and Scrutiny Committees
- Section F.** Scheme of Delegation to Officers



# Section A

## Responsibility for Local Choice Functions

Local Choice Functions		Executive or Non-Executive	Decision Maker	Further Delegation
1	Any function under a Local Act not specifically excepted.	See Annex 1 below	See Annex 1 below	See Annex 1 below
2	The determination of any appeal against any decision made by or on behalf of the Authority.	See Annex 2 below	See Annex 2 below	See Annex 2 below
3	Making of arrangements in relation to appeals against the exclusion of pupils from maintained schools.	Non-Executive	City Solicitor	
4	Making arrangements for school admission appeals.	Non-Executive	City Solicitor	
5	Making arrangements for appeals by governing bodies.	Non-Executive	City Solicitor	
6	Making of arrangements for enabling questions to be put on the discharge of the functions of a police authority.	Non-Executive	Full Council	Not Delegated
7	Making appointments of Council Members to police authorities.	Non-Executive	Full Council	Not Delegated
8	Any function relating to contaminated land.	Executive	Executive	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
9	The discharge of any function relating to the control of pollution or the management of air quality.	Executive	Executive	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
10	The service of an abatement notice in respect of a statutory nuisance.	Non-Executive	Licensing and Appeals Committee	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
11	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.	Non-Executive	Full Council	Not Delegated

## RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

12	The inspection of the Authority's area to detect statutory nuisance.	Non-Executive	Licensing and Appeals Committee	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
13	The investigation of any complaint as to the existence of a statutory nuisance.	Non-Executive	Licensing and Appeals Committee	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
14	Obtaining information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Non-Executive	Head of Planning	
15	Obtaining particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Non-Executive	All Chief Officers	
16	Making agreements for the execution of highway works.	Executive	Executive	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
17	The appointment of any individual –  (i) (a) to any office other than an office in which he is employed by the authority  (b) to any body other than (i) The Authority (ii) A Joint Committee of 2 or more Authorities or  (c) to any Committee or Sub-Committee of such a body,  to outside bodies in connection with executive functions and the revocation of any such appointment.	Executive	Executive	Chief officer as provided in the Scheme of Delegation at Part 3
17	The appointment of any individual –  (ii) (a) to any office other than an office in which he is employed by the authority  (c) to any body other than (i) The Authority (ii) A Joint Committee of 2 or more Authorities or  (c) to any Committee or Sub-Committee of such a body,  to outside bodies in connection with non-executive functions and the revocation of any such appointment.	Non-Executive	Full Council	Committee or chief officer, as provided in the Scheme of Delegation at Part 3
18	The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.	Non-Executive	Personnel Committee	Chief Executive

## RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

19 (i)	Functions under section 106(1) of the Local Government and Public Involvement in Health Act 2007 (to approve draft Local Area Agreement for submission)	Non-Executive	Full Council	Not Delegated
19 (ii)	Functions under sections 106, 110, 111 and 113 of the Local Government and Public Involvement in Health Act 2007 relating to local area agreements (other than functions under section 106(1) relating to approval of draft Local Area Agreement)	Executive	Executive	Chief Executive

## ANNEX 1

There are a number of functions in the Greater Manchester Act 1981 ('the Local Act') and the responsibility for the discharge of these functions should be as follows:

Function			Executive or Non-Executive	Decision Making Body	Further Delegation
1	Section 11	Bye-laws as to Leisure Centres	Non-Executive	Full Council	Not Delegated
2	Section 12	Closure of Parks	Executive	Executive	Head of Community and Cultural Services
3	Section 13	Provision of Parking Places in Parks, etc	Executive	Executive	Head of Community and Cultural Services
4	Section 14	Provision of Vehicles in Parks etc.	Executive	Executive	Head of Community and Cultural Services
5	Section 15	Contribution towards Provision of Recreational Facilities	Executive	Executive	Head of Community and Cultural Services
6	Section 21	Recovery of Street Works Charges Where Owner Unknown	Executive	Executive	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
7	Section 22	Street Numbers	Executive	Executive	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
8	Section 24	Provision of Trees and Shrubs	Non-Executive	Planning and Highways Committee	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
9	Section 26	Prohibition of Parking of Goods Vehicles in Residential Streets	Executive	Executive	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
10	Section 27	Control of Verges	Executive	Executive	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
11	Section 28	Temporary Stoppage of Footpaths and Bridleways	Executive	Executive	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
12	Section 29	Vesting of Former highway Land	Executive	Executive	Head of Planning
13	Section 30	Hairdressers and Barbers	Non-Executive	Licensing and Appeals Committee	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
14	Section 32	Acupuncturists, Tatuists, Ear Piercers, Electrolysis etc.	Non-Executive	Licensing and Appeals Committee	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
15	Section	Dust etc. from Building	Non-	Licensing	Assistant Chief Executive

## RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

	34	Operations	Executive	and Appeals Committee	(Neighbourhood Strategy and Delivery)
16	Section 35	Carrying or Storage of Waste Food	Executive	Executive	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
17	Section 36	Power to Order Alteration of Chimneys	Non-Executive	Licensing and Appeals Committee	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
18	Section 37	Control of Rats and Mice	Executive	Executive	Head of Business Units
19	Section 38	Powers of Entry for Prevention of Damage by Pests Act 1949	Executive	Executive	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
20	Section 42	Control of Stray Dogs	Executive	Executive	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
21	Section 43	Repair of Walls etc. of Yards	Non-Executive	Licensing and Appeals Committee	Head of Planning
22	Section 44	Temporary Repair of Defective premises	Executive	Executive	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
23	Section 47	Urgent Repairs to Water, Gas and Electricity apparatus	Executive	Executive	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
24	Section 48	Artificial Lighting in Habitable Rooms etc.	Non-Executive	Licensing and Appeals Committee	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
25	Section 49	Trees impeding Natural Light to Houses, Shops and Offices	Non-Executive	Licensing and Appeals Committee	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
26	Section 50	Weatherproofing of Property	Non-Executive	Licensing and Appeals Committee	Head of Planning
27	Section 53	Prohibition of Interference with Bird Traps	Non-Executive	Licensing and Appeals Committee	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
28	Section 54	Dealings in Second Hand Goods	Non-Executive	Licensing and Appeals Committee	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
29	Section 55	Safety of Ceilings in Bingo Halls	Non-Executive	Licensing and Appeals Committee	Head of Planning
30	Section 58	Safety of Stands	Non-Executive	Licensing and Appeals Committee	Head of Planning
31	Section 59	Bye-laws with regard to Certain Temporary Structures	Non-Executive	Full Council	Not Delegated
32	Section 60	Touting, Hawking, Photographing etc.	Non-Executive	Licensing and Appeals Committee	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
33	Sections 61 & 63 and 65-66	Fire Precautions	Non-Executive	Licensing and Appeals Committee	Head of Planning
34	Sections 67-73	Storage of Flammable Material	Non-Executive	Licensing and Appeals Committee	Head of Planning
35	Section	Entertainment Clubs	Non-	Licensing	Assistant Chief Executive

## RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

	s 74-81		Executive	and Appeals Committee	(Neighbourhood Strategy and Delivery)
36	Section 98-106	Aviation	Executive	Executive	Not Delegated
37	Section 117	Power to Compound to Payment of Tolls	Non-Executive	Licensing and Appeals Committee	Director of Commercial Services
38	Section 118	Power to require information to allow Council to discharge its duties and powers in relation to markets	Non-Executive	Licensing and Appeals Committee	Assistant Chief Executive (Neighbourhood Strategy and Delivery).
39	Section 119	Power to permit market places to be used for Public Meetings etc.	Non-Executive	Licensing and Appeals Committee	Director of Commercial Services
40	Section 120	Market Bye-laws	Non-Executive	Full Council	Not Delegated
41	Section 136-144	Night Cafes in Manchester	Non-Executive	Licensing and Appeals Committee	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
42	Section 148	Appointment of Art Galleries Committee	Non-Executive	Full Council	Not Delegated
43	Section 149	Manchester Central Art Gallery	Non-Executive	Art Galleries Committee	Deputy Chief Executive (Neighbourhoods) (with the exception of Section 149(3) which in the case of the proposed sale or exchange of any work of art worth more than £25,000 the proposed sale or exchange shall be approved by the Art Galleries Committee)
44	Section 152	North Western Museum of Science and industry	Executive	Executive	Not Delegated
45	Section 162	Restriction on the use of Armorial Bearings	Executive	Executive	Not Delegated
46	Section 163	Unauthorised Activities on Playing Fields (education)	Executive	Executive	Strategic Director of Children's Services
47	Section 164	Pedal Cycles	Executive	Executive	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
48	Section 165	Prohibition of Entry of Goods Vehicles in Front Gardens	Executive	Executive	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
49	Section 166	Hackney Carriage Fares	Executive	Executive	Not Delegated
50	Section 167	Signs on Vehicles	Non-Executive	Licensing and Appeals Committee	Assistant Chief Executive (Neighbourhood Strategy and Delivery)



## RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

### Annex 2

Appeals		Executive or Non-Executive	Decision Making Body	Further Delegation
1	To determine appeals where payments of the National Non-Domestic Rate would cause hardship, appeals in function to Discretionary Rate Relief, and appeals to reduce amount of council tax payable.	Non-Executive	Licensing and Appeals Committee	Not Delegated
2	To determine appeals against the decisions of Chief Officers to remove companies from approved lists of contractors in relation to the execution of works and the supply of goods and services.	Non-Executive	Licensing and Appeals Committee	City Treasurer
3	To determine appeals by market traders where the trader's licence has been revoked.	Non-Executive	Licensing and Appeals Committee	Director of Commercial Services
4	To determine any other appeals referred to the Committee against any decision made by or on behalf of the authority.	Non-Executive	Licensing and Appeals Committee	All Chief Officers
5	To determine appeals against dismissal.	Non-Executive	Employee Appeals Committee	Not Delegated

## **Section B**

# **Executive Functions**

## RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

### SECTION B: RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

The Leader of the Council may determine to exercise any of the executive functions of the Council personally, or may arrange for the exercise of any of the Council's executive functions by:-

- (i) the Executive; or
  - (ii) another member of the Executive; or
  - (iii) a committee of the Executive; or
  - (iv) an officer of the Council; or
  - (v) an area committee
- (A) The Leader has delegated all executive functions to the Executive under Section 9E of the Local Government Act 2000, as amended, but this does not prevent the Leader from discharging such functions personally.
- (B) Officers may discharge the executive functions delegated to them in the Scheme of Delegation to Officers, subject to the terms of the delegation.
- (C) Where joint arrangements are established with one or more local authorities and/ or their executives to exercise functions which are executive functions, any joint committee appointed in accordance with those arrangements may, subject to the terms of those arrangements, discharge those executive functions.
- (D) Where executive functions are delegated by the Leader or the Executive to be discharged by another local authority or the executive of another authority, that authority or executive may discharge such functions (subject to the terms of the delegation), but this will not prevent the Leader (or the Council's Executive) discharging such functions themselves.

#### **NOTES**

- (i) In exercising delegated powers Officers must have regard to the principles set out in the Introduction to the Scheme of Delegation to Officers.
- (ii) Where the Leader delegates the discharge of executive functions to the Executive, the Executive may arrange for the discharge of any of those functions by a committee of the Executive or an officer of the authority.
- (iii) Any arrangements made by the Leader for the discharge of executive functions by the Executive, a committee of the Executive, or a member of the Executive do not prevent the Leader from exercising those functions.
- (iv) Any arrangements made by the Leader or the Executive for the discharge of executive functions by an officer do not prevent the Leader or, as the case may be, the Executive from exercising those functions.

## RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

- (v) By an Operating Agreement dated 1 April 2011, the discharge of the following Executive functions has been delegated to Transport for Greater Manchester (Joint) Committee –
- (a) carrying out actions to facilitate the performance by local traffic authorities of their duty to manage road traffic on their own roads and facilitating the same on other local authorities' roads pursuant to sections 16 and 17 (except for sub-sections 17(2) and (3)) of the Traffic Management Act 2004
  - (b) preparing and carrying out a programme of measures designed to promote road safety, including carrying out road safety studies, studies into accidents, accident prevention campaigns, the dissemination of information and advice relating to the use of roads, and arranging for the giving of practical training to road users pursuant to sections 39(2) and 39(3)(a) and (b) of the Road Traffic Act 1988.



## **Section C**

# **Council (Non-Executive) Functions**

**SECTION C: RESPONSIBILITY FOR NON - EXECUTIVE FUNCTIONS**

To discharge non-executive functions which are not reserved to full Council alone, the Council has established the following ordinary committees.

- **PLANNING AND HIGHWAYS COMMITTEE**
- **LICENSING AND APPEALS COMMITTEE**
- **LICENSING COMMITTEE**
- **LICENSING POLICY COMMITTEE**
- **ART GALLERIES COMMITTEE:** - consisting of at least 14 members of the Council and 7 non-voting co-opted members appointed by the University of Manchester.
- **AUDIT COMMITTEE**
- **CONSTITUTIONAL AND NOMINATION COMMITTEE**
- **EMPLOYEE APPEALS COMMITTEE**
- **PERSONNEL COMMITTEE**
- **HEALTH AND WELLBEING BOARD**

The terms of reference of these Committees and their delegated powers are set out in the following pages.

Where the Council has delegated responsibility for the discharge of non-executive functions to officers, these delegations will appear in the Scheme of Delegation to Officers.

**RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS**

**PLANNING AND HIGHWAYS COMMITTEE**

Function		Provision of Act or Statutory Instrument	Delegation to Officers
<b>I.</b>	<b>Functions relating to town and country planning and development control</b>		
1	Power to determine applications for planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990.	Head of Planning* See note below
2	Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.	Head of Planning* See note below
3	Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.	Head of Planning * See note below
4	Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990.	Head of Planning
5	Duties relating to the making of determinations of planning applications.	Sections 69 and the Town and Country Planning (Development Management Procedure) (England) Order 2010/2184 and directions made thereunder.	Head of Planning
6	Power to determine applications for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I.1992/1492).	Head of Planning* See note below
7	Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6,7,11,17,19,20,21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I.1995/418).	Head of Planning
8	Power to enter into agreement regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.	Head of Planning
9	Power to issue a certificate of existing or proposed lawful use or development.	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.	Head of Planning
10	Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.	Head of Planning
11	Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (S.I. 2007/783).	Head of Planning
12	Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990.	Head of Planning
13	Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.	Not Delegated
14	Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990.	Head of Planning



## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

15	Power to issue a temporary stop notice	Section 171E of the Town and Country Planning Act 1990.	Head of Planning
16	Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990.	Head of Planning
17	Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990.	Head of Planning
18	Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990 (c.10).	Head of Planning
19	Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c.25) and paragraph 6(5) of schedule 14 to that Act.	Head of Planning
20	Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.	Head of Planning
21	Power to determine application for listed building consent, and related powers.	Section 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9).	Head of Planning* See note below
22	Power to determine applications for conversation area consent.	Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, applied by section 74(3) of that Act.	Head of Planning* See note below
23	Duties relating to applications for listed building consent and conservation area consent.	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Conservation Areas) Regulations 1990 (S.I.1990/1519).	Head of Planning
24	Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.	Not Delegated
25	Power to issue listed building enforcement notices.	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990.	Head of Planning
26	Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990.	Head of Planning
27	Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990.	Head of Planning
28	Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990.	Head of Planning subject to consultation with the Chair of Planning and Highways Committee

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

**Note: Functions marked with an \* are delegated to the Head of Planning to approve (including approvals subject to conditions) the applications either where there is no objection from third parties of a planning nature or where there are objections from third parties of a planning nature but the proposal is clearly in accordance with approved Council planning policies.**

<b>II Miscellaneous Functions relating to highways.</b>			
1	Power to create footpath, bridleway or restricted byway by agreement.	Section 25 of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)* see note below
2	Power to create footpaths, bridleways and restricted byways.	Section 26 of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)* see note below
3	Duty to keep register of information with respect to maps, statements and declarations.	Section 31A of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
4	Power to stop up footpaths bridleways and restricted byways.	Section 118 of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)* see note below
5	Power to make a rail crossing extinguishment order.	Section 118A the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)* see note below
6	Power to make a special extinguishment order.	Section 118B the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)* see note below
7	Power to divert footpaths bridleways or restricted byways.	Section 119 of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)* see note below
8	Power to make a rail crossing diversion order.	Section 119A of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)* see note below
9	Power to make a special diversion order.	Section 119B of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)* see note below

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

10	Power to make SSSI diversion order.	Section 119D of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)* see note below
11	Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
12	Duty to serve notice of proposed action in relation to obstruction.	Section 130A of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
13	Power to apply for variation of order under Section 130B of the Highways Act 1980.	Section 130B(7) of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
14	Power to authorise temporary disturbance of surface of footpath bridleways or restricted byways.	Section 135 of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
15	Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
16	Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)* see note below
17	Duty to keep a definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
18	Power to include modifications in other orders.	Section 53A of the Wildlife and Countryside Act 1981.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
19	Duty to keep register of prescribed information with respect to applications under Section 53(5) of the Wildlife and Countryside Act 1981.	Section 53B of the Wildlife and Countryside Act 1981.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
20	Power to prepare map and statement by way of consolidation of definitive map and statement.	Section 57A of the Wildlife and Countryside Act 1981.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

21	Power to designate footpath as cycle track.	Section 3 of the Cycle Tracks Act 1984.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
22	Power to extinguish public right of way <b>over</b> land acquired for clearance.	Section 294 of the Housing Act 1985.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
23	Power to make applications for orders for stopping up or diversion of highway.	Section 247 of the Town and Country Planning Act 1990	Assistant Chief Executive (Neighbourhood Strategy and Delivery)* see note below
24	Power to authorise stopping up or diversion of footpath, bridleway or restricted byways.	Section 257 of the Town and Country Planning Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)* see note below
25	Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)* see note below
26	Power to enter into agreements with respect to means of access.	Section 35 of the Countryside and Rights of Way Act 2000.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
27	Power to provide access in absence of agreement.	Section 37 of the Countryside and Rights of Way Act 2000.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
28	Power to permit deposit of builders' skips on highway.	Section 139 of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
29	Power to license planting, retention and maintenance of trees etc. in part of highway.	Section 142 of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
30	Power to authorise erection of stiles etc. on footpaths or bridleways.	Section 147 of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
31	Power to license works in relation to buildings etc. which obstruct the highways.	Section 169 of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

32	Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
33	Power to dispense with obligation to erect hoarding or fence.	Section 172 of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
34	Power to restrict the placing of rails, beams etc. over highway.	Section 178 of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
35	Power to consent to construction of cellars etc. under street.	Section 179 of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
36	Power to consent to the making of openings into cellars etc. under streets, pavement lights, ventilators.	Section 180 of the Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
37	Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
38	Power to grant permission for provision etc of services, amenities, recreations & refreshment facilities on highway and related powers.	Sections 115E, 115F and 115K of Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
39	Duty to publish notice in respect of proposal to grant permission under S115E of the Highways Act 1980.	Section 115G of Highways Act 1980.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)

Note: Functions marked with a \* are delegated to the Assistant Chief Executive (Neighbourhood Strategy and Delivery) subject to consultation with the Chair of the Planning and Highways Committee.

<b>III Trees and Hedgerows</b>			
1	Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990 and Town and Country Planning (Tree Preservation) (England) Regulations 2012 (2012/605) .	Head of Planning
2	Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997.	Head of Planning
3	Powers relating to complaints about high hedges.	Part 8 of the Anti-Social Behaviour Act 2003.	Head of Planning

<b>IV Local Choice Functions</b>			
1	Provision of trees and shrubs.	Section 24 Greater Manchester Act 1981.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

V	Conditions etc. and Enforcement	
1	<p>The Functions of -</p> <p>(a) Imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted in the exercise of any of the functions set out in sections I, II, III and function 2 in section IV above, and</p> <p>(b) determining any other terms to which any such approval, consent, licence, permission or registration is subject.</p>	Delegated to the same officer who has been delegated the power to approve, consent, licence permit or register in the exercise of any of the above functions.
2	<p>The function of determining whether, and in what manner, to enforce -</p> <p>(a) any contravention or failure to comply with an approval, consent, licence, permission or registration granted as mentioned in sections I, II, III and function 2 in section IV above;</p> <p>(b) any contravention or failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject.</p>	Delegated to the same officer who has been delegated the power to approve, consent, licence permit or register in the exercise of any of the above functions
3	<p>The function of -</p> <p>(a) amending, modifying or varying any such approval, consent, licence, permission or registration as is mentioned at sections I, II, III and function 2 in section IV above, or any condition, limitation or term to which it is subject, or</p> <p>(b) revoking any such approval, consent, licence, permission or registration.</p>	Delegated to the same officer who has been delegated the power to approve, consent, licence permit or register in the exercise of any of the above functions.
4	<p>The function of determining -</p> <p>(a) Whether a charge should be made for any approval, consent, licence, permit or registration as is mentioned at sections I, II, III and function 2 in section IV above; and</p> <p>(b) Where a charge is made for any such approval, consent, licence, permit or registration, the amount of the charge.</p>	Delegated to the relevant officer in consultation with the Chair.

### **DELEGATION**

In exercising the above powers and responsibilities, the Committee and, unless the Committee or this Constitution provides otherwise, the relevant Officer shall have delegated powers to make decisions and act on behalf of the Council, PROVIDED THAT neither the Committee nor the relevant Officer shall exercise their delegated powers (but shall submit recommendations to the Council) in relation to any item which the Council calls in for determination.

[Note: the Committee may refer items to the Council for determination.]

**RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS**

**LICENSING AND APPEALS COMMITTEE**

Function		Provision of Act or Statutory Instrument	Delegation to Officers
<b>I.</b>	<b>Licensing and Registration Functions</b>		
1	Power to issue licences authorising the use of land as a caravan site ("site licences").	Section 3(3) of the Caravan Sites and Control of Development Act 1960.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
2	Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
3	Power to licence hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976;  (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
4	Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
5	Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
6	Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(d) and (4) of the Gambling Act 2005 (Commencement No 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272) ("the Gambling Act Order").	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
7	Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(d) and (4) of the Gambling Act Order.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
8	Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(e) and (4) of the Gambling Act Order.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
9	Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 as saved for certain purposes by article (4)(2) (l) and (m) of the Gambling Act Order.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
10	Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 as saved for certain purposes by article (5)(2) (a) and (3) of the Gambling Act Order.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

11	Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976 as saved for certain purposes by article (5)(2)(d) and (5) of the Gambling Act Order.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
12.	Power to institute proceedings for failing to provide for safety of children at entertainments.	Section 12 of the Children and Young Persons Act 1933.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
13	Power to license sex shops and sex cinemas, and sexual entertainment venues.	Section 2 & Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).	Assistant Chief Executive (Neighbourhood Strategy and Delivery) (limited to power to renew existing licences)
14	Power to license performances of hypnotism.	The Hypnotism Act 1952.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
15	Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
16	Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
17	Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982.	Assistant Chief Executive (Neighbourhood Strategy and Delivery) (Street trading); Director of Commercial Services (Market Trading)
18	Duty to keep list of persons entitled to sell non-medicinal poisons.	Section 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
19	Power to register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
20	Power to license scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
21	Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975.	Head of Planning
22	Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987.	Head of Planning
23	Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)



## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

24	Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951; section 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970; section 1 of the Breeding of Dogs Act 1973, and sections 1 and 8 of the Breeding of Dogs (Welfare) Act 1999.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
25	Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
26	Power to license zoos.	Section 1 of the Zoo Licensing Act 1981.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
27	Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
28	Power to license the employment of children.	Part II of the Children and Young Persons Act 1933, byelaws made under that Part, and Part II of the Children and Young Persons Act 1963.	Director of Children's Services
29	Power to approve premises for the solemnisation of marriages and civil partnerships.	Section 46A of the Marriage Act 1949, Section 28 of the Civil Partnerships Act 2004, and The Marriages and Civil Partnerships (Approved Premises) Regulations 2005 (S.I.2005/3168).	City Solicitor
30	Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to - (a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 or (b) an order under section 147 of the Inclosure Act 1845.	Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I.1969/1843).	Chief Executive
31	Power to register variation of rights of common.	Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I.1966/1471).	Chief Executive
32	Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916, and section 2 of the House to House Collections Act 1939.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
33	Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
34	Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
35	Power to register motor salvage operators.	Part I of the Vehicle (Crime) Act 2001.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

36	Functions relating to the registration of common land and town or village greens.	Part 1 of the Commons Act 2006 (c.26) and the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2008 (S.I. 2007/457)	Chief Executive
37	Functions Relating to Smoke Free Premises - Duty to enforce Chapter 1 and regulations made under it.	Section 10(3) of the Health Act 2006	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
38	Functions Relating to Smoke Free Premises - Power to authorise officers.	Section 10(5) of the Health Act 2006	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
39	Functions Relating to Smoke Free Premises - Functions relating to fixed penalty notices.	Paragraphs 13,15 and 16 of Schedule 1 to the Health Act 2006. Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007 (S.I. 2006/760)	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
40	Functions Relating to Smoke Free Premises - Power to transfer enforcement functions to another enforcement authority.	Smoke-free (Premises and Enforcement) Regulations 2006 (S.I. 2006/3368)	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
41	Power to make order identifying place as a designated public place for purposes of police powers in relation to alcohol consumption.	Section 13 (2) of Criminal Justice and Police Act 2001.	Not Delegated
42	Power to make or revoke an order designating a locality as an alcohol disorder zone.	Section 16 of the Violent Crime Reduction Act 2006	Not Delegated
43	Power to apply for an enforcement order against unlawful works on common land.	Section 41 of the Commons Act 2006	City Solicitor
44	Power to protect unclaimed registered common land and unclaimed town or village greens	Section 45(2)(a) of the Commons Act 2006	City Solicitor
45	Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens.	Section 45(2)(b) of the Commons Act 2006	City Solicitor

<b>II Functions relating to health and safety at work</b>			
	Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health & Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.	Part I of the Health & Safety at Work etc. Act 1974.	Assistant Chief Executive (Neighbourhood Strategy and Delivery)

<b>III Local Choice Functions</b>			
1	Hairdressers and Barbers.	Section 30	Assistant Chief Executive (Neighbourhood Strategy and Delivery)

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

2	Acupuncturists, Tatoists, Ear Piercers, Electrolysisists etc.	Section 32	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
3	Dust etc. from Building Operations.	Section 34	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
4	Power to Order Alteration of Chimneys.	Section 36	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
5	Repair of Walls etc. of Yards.	Section 43	Head of Planning
6	Artificial Lighting In Habitable Rooms etc.	Section 48	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
7	Trees impeding Natural Light to Houses, Shops and Offices.	Section 49	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
8	Weatherproofing of Property.	Section 50	Head of Planning
9	Prohibition of Interference with Bird Traps.	Section 53	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
10	Dealings in Second Hand Goods.	Section 54	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
11	Safety of Ceilings in Bingo Halls.	Section 55	Head of Planning
12	Safety of Stands.	Section 58	Head of Planning
13	Touting, Hawking, Photographing etc.	Section 60	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
14	Fire Precautions.	Sections 61, 63-66	Head of Planning
15	Storage of Flammable Material.	Sections 67-73	Head of Planning
16	Entertainment Clubs.	Sections 74-81	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
17	Aviation.	Section 98-106	Not Delegated
18	Power to Compound to Payment of Tolls.	Section 117	Director of Commercial Services
19	Power of Council to require information to allow Council to discharge its duties and powers in relation to markets	Section 118	Director of Commercial Services (where information required in relation to functions of the Council delegated to the Director of Commercial Services).  Assistant Chief Executive (Neighbourhood Strategy and Delivery) (where information required in relation to functions of the Council delegated to the Assistant Chief Executive (Neighbourhood Strategy and Delivery))
20	Power to permit market places to be used for Public Meetings etc.	Section 119	Director of Commercial Services
21	Night Cafes in Manchester.	Section 136-144	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
22	Signs on Vehicles.	Section 167	Assistant Chief Executive (Neighbourhood Strategy and Delivery)

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

IV	<b>Appeals</b>	
1	To determine appeals where payments of the National Non-Domestic Rate would cause hardship, appeals in function to Discretionary Rate Relief, and appeals to reduce amount of council tax payable.	Not Delegated
2	To determine appeals against the decisions of Chief Officers to remove companies from approved lists of contractors in relation to the execution of works and the supply of goods and services.	City Treasurer
3	To determine appeals by market traders where the trader's licence has been revoked.	Director of Commercial Services
4	To determine any other appeals referred to the Committee against any decision made by or on behalf of the authority.	All Chief Officers

V	<b>Conditions etc. and Enforcement</b>	
1	The functions of imposing any condition, limitation or other restriction on any approval, consent, licence, permission or registration granted in the exercise of any of the above functions and determining any other terms to which any such approval, consent, licence, permission or registration is subject.	Officer relevant to the function.
2	The function of determining whether, and in what manner, to enforce - (a) any contravention or failure to comply with an approval, consent, licence, permission or registration granted as mentioned above; or (b) any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject.	Officer relevant to the function.
3	The function of - (a) amending, modifying or varying any such approval, consent, licence, permission or registration as is mentioned above, or any condition, limitation or term to which it is subject, or (b) revoking any such approval, consent, licence, permission or registration.	Officer relevant to the function.
4	The function of determining - (a) Whether a charge should be made for any approval, consent, licence, permit or registration as is mentioned above; and (b) Where a charge is made for any such approval, consent, licence, permit or registration, the amount of the charge.	Officer relevant to the function in consultation with the Chair.

## **DELEGATION**

In exercising the above powers and responsibilities, the Committee and, unless the Committee directs otherwise, the relevant Officer shall have delegated powers to make decisions and act on behalf of the Council, except that in the following matters, neither the Committee nor the relevant Officer shall exercise their delegated powers, but shall submit recommendations to the Council:

- (1) decisions on the control of hackney carriage numbers.
- (2) any item which the Council calls in for determination

[Note: the Committee may refer any items to the Council for determination].

*[Note: The members of the Licensing and Appeals Committee will also act as an advisory committee under section 102(4) of the Local Government Act 1972 to advise the Executive on the discharge of the functions of the Council relating to:-*

- (1) *Stands (ranks) for hackney carriages pursuant to section 63 of the Local Government (Miscellaneous Provisions) Act 1976 ("the Act");*
- (2) *Fixing of fares for hackney carriages pursuant to section 65 of the Act.]*

**RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS**

**LICENSING COMMITTEE**

1. To discharge the functions of the Council as licensing authority under the Licensing Act 2003, with the exception of any function conferred on the Council under Section 5 of the Act (statement licensing policy).
2. Without prejudice to the generality of the above the Committee may arrange for the sub-delegation of the functions to sub committee(s) established by it or (subject to the exceptions in Section 10 (4) of the Act) to an officer of the licensing authority.

<b>Matter to be dealt with</b>		<b>Subcommittee (Licensing Panel)</b>	<b>Assistant Chief Executive (Neighbourhood Strategy and Delivery)</b>
1	Application for personal licence.	In cases of police objection	If no objection made
2	Application for personal licence with unspent convictions.	In cases of police objection	If no objection made
3	Application for premises licence/club premises certificate.	If relevant representation made and not withdrawn	If no relevant representation made
4	Application for provisional statement.	If relevant representation made and not withdrawn	If no relevant representation made
5	Application to vary premises licence/club premises certificate.	If relevant representation made and not withdrawn	If no relevant representation made
6	Application to vary designated premises supervisor.	In cases of police objection	All other cases
7	Application for transfer of premises licence.	In cases of police objection	All other cases
8	Applications for interim authority.	In cases of police objection	All other cases
9	Application to review premises licence/club premises certificate.	All cases	
10	Decision to object when local authority is a consultee and not the relevant authority considering the application.	All cases	
11	Decision about police objection to temporary event notice.	All cases	
12	Decisions on applications for minor variations	All Cases	All cases (in consultation with the Chair of the Licensing Committee)

**Note:** Where no representations are received in respect of an application, the licensing officer will deal with the application under delegated authority without the need for a hearing.

3. The Licensing Committee has delegated to the Deputy Chief Executive (Neighbourhoods) the function of discharge the functions of the Council in relation to the suspension of licences under section 55A (premises licence) and section 92A (club premises licence) of the Licensing Act 2003.

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

4. To discharge the functions of the Council as licensing authority under the Gambling Act 2005 and Regulations made thereunder with the exception of any function conferred on the Council under sections 166, and 349 of the Act.
5. Without prejudice to the generality of the above the Committee may arrange for the sub-delegation of the functions to sub-committee(s) established by it or (subject to the exceptions in Section 154(4) of the Gambling Act 2005) to an officer of the licensing authority.

Matter to be dealt with		Full Council	Sub-committee of licensing committee	Assistant Chief Executive (Neighbourhood Strategy and Delivery)
1	Three year licensing policy.	✓		
2	Policy not to permit casinos.	✓		
3	Fee setting (when appropriate).			✓
4	Application for premises licences.		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
5	Application for a variation to a licence.		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
6	Application for a transfer of a licence.		Where representations have been received from the Commission	Where no representations received from the Commission
7	Application for a provisional statement.		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
8	Review of a premises licence.		✓	
9	Application for club gaming/club machine permits.		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
10	Cancellation of club gaming/club machine permits.		✓	
11	Applications for other permits.			✓
12	Cancellation of licensed premises gaming machine permits.			✓
13	Consideration of Temporary Use Notice.			✓
14	Decision to give a counter notice to a Temporary Use Notice.		✓	

6. To establish one or more sub committees consisting of three members of the Committee.

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

### **NOTE**

Where the committee is unable to discharge any function delegated to it because of the number of members who are unable to take part in the consideration or discussion of any matter or vote on any question, the committee must refer the matter back to the licensing authority and the authority must discharge the function.

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

### **LICENSING POLICY COMMITTEE**

1. To monitor and keep under review the Council's policy with respect to its licensing functions during the three year period of the policy.
2. To make arrangements for consulting the statutory consultees and other appropriate persons or bodies in relation to the Council's policy.
3. To make recommendations to the Council as licensing authority as to any proposed revisions to its licensing policy during the period of that policy and in relation to any new policy for a subsequent three year period.



## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

### **ART GALLERIES COMMITTEE**

1. To discharge the functions of the Council under section 149 of the Greater Manchester Act 1981 and, insofar as they relate to art galleries, [sections 12-15 of the Public Libraries and Museums Act 1964] and section 145 of the Local Government Act 1972.
2. To provide such financial and other information as is required by the Executive and the Council to enable them to exercise their functions in relation to the revenue and capital budgets.

#### Delegation

In exercising the above powers and responsibilities, the Committee shall have delegated power (subject to Council Procedure Rule 9 – Reference to Council of Decisions taken under Delegated Powers) to make decisions and act on behalf of the Council.

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

### AUDIT COMMITTEE

1. To receive and approve the authority's statement of accounts, including the Annual Governance Statement in accordance with the Accounts and Audit (England) Regulations 2011.
2. To consider external audit and inspection reports in the Audit Commission's Annual Audit and Inspection Letter in accordance with the Accounts and Audit (England) Regulations 2011 and to monitor the Council's response to individual issues of concern identified.
3. To consider and approve the findings of the Council's annual review of the effectiveness of its system of internal control under the Accounts and Audit (England) Regulations 2011, including the effectiveness of its system of internal audit.
4. In furtherance of the Council's duty to make arrangements for the proper administration of its financial affairs and the Committee's responsibilities under the Accounts and Audit (England) Regulations 2011 set out above:
  - 4.1 To obtain assurance over the Council's corporate governance and risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
  - 4.2 To review and approve (but not direct) the terms of reference for internal audit and an Internal Audit Strategy.
  - 4.3 To review and approve (but not direct) the internal annual audit programme considering the effectiveness of proposed and actual coverage in providing adequate assurance over the Council's arrangements for governance, risk management and system of internal control.
  - 4.4 To monitor the implementation and outcomes of the Council's internal audit programme and where required, to review summary and individual audit reports with significant implications for financial management and internal control.
  - 4.5 To seek assurance on the adequacy of management response to internal audit advice, findings and recommendations in the form of implementation of agreed action plans.
  - 4.6 To receive the Annual Report of the Head of Internal Audit.
  - 4.7 To consider the external auditor's annual letter, relevant reports and the annual report to those charged with governance on issues arising from the audit of the Statement of Accounts.
  - 4.8 To engage with the external auditor and external inspection agencies and other relevant bodies to ensure that there are effective relationships between external and internal audit.

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

- 4.9 To make recommendations to the Chief Finance Officer and Monitoring Officer in respect of Part 5 of the Council's Constitution (Financial Regulations).
- 4.10 To consider the Code of Corporate Governance.
- 4.11 To monitor the performance of the Treasury Management function including receiving and reviewing the Treasury Management Annual Report and monitoring reports and other reports and to review and scrutinise Treasury Management Performance.
- 4.12 To consider and advise the Council on the Annual Governance Statement.

**Delegation:** In exercising the above powers and responsibilities, the Committee shall have delegated power to make decisions and act on behalf of the Council.

**Note:** The Committee may itself determine not to exercise its delegated powers and instead make recommendations to the Council.

**RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS**

**CONSTITUTIONAL AND NOMINATION COMMITTEE**

**Delegations**

1. To discharge the functions relating to elections set out in schedule 1(D) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

	<b>Function</b>	<b>Provision of Act</b>	<b>Delegation to Officers</b>
1	Duty to appoint an electoral registration officer.	Section 8(2) of the Representation of the People Act 1983.	Not Delegated
2	Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983.	Chief Executive
3	Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983.	Not Delegated
4	Duty to provide assistance at European Parliamentary elections.	Section 6(7) & (8) of the European Parliamentary Elections Act 2002.	Chief Executive
5	Duty to divide constituency into polling districts.	Section 18A to 18E of, and Schedule A1 to, of the Representation of the People Act 1983.	Not Delegated
6	Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983.	Not Delegated
7	Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983.	Chief Executive
8	Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983.	Chief Executive
9	Power to fill vacancies in the event of insufficient nominations.	Section 21 of the Representation of the People Act 1985.	Chief Executive
10	Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.	Chief Executive
11	Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972.	Chief Executive
12	Power to make temporary appointments to parish councils.	Section 91 of the Local Government Act 1972.	Not Delegated
13	Power to submit proposals to the Secretary of State for an order for pilot schemes for local elections in England and Wales.	Section 10 of the Representation of the People Act 2000.	Not Delegated
14	Duties relating to publicity.	Sections 35, 41 and 52 of the Local Government and Public Involvement in Health Act 2007.	Chief Executive
15	Duties relating to notice to Electoral Commission.	Sections 36 and 42 of the Local Government and Public Involvement in Health Act 2007.	Chief Executive

2. To make payments and provide other benefits in cases of maladministration.

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

### **Referred to make recommendations**

3. To consider reports from time to time of the Monitoring Officer on the Council's Constitution and to make reports to Council on proposed amendments.
4. To make recommendations to Council on:
  - 4.1 the power to dissolve small parish councils under Section 10 of the Local Government Act 1972.
  - 4.2 the power to make orders for grouping parishes, dissolving groups and separating parishes from groups under Section 11 of the Local Government Act 1972.
  - 4.3 the duty to consult on change of scheme for elections under Sections 33(2), 38(2) and 40(2) of the Local Government and Public Involvement in Health Act 2007.
  - 4.4 The power to alter the years of ordinary elections of parish councillors under Section 53 of the Local Government and Public Involvement in Health Act 2007.
  - 4.5 Functions relating to the change of the name of an electoral area under Section 59 of the Local Government and Public Involvement in Health Act 2007.
  - 4.6 The power to confer the title of honorary alderman or honorary alderwoman, or admit to be an honorary freeman or honorary freewoman, under Section 249 of the Local Government Act 1972.
  - 4.7 making, amending, revoking or re-enacting of byelaws.
  - 4.8 The power to promote or oppose local or personal Bills under Section 239 of the Local Government Act 1972.
  - 4.9 The power to appoint of "proper officers" for particular purposes under Section 239 of the Local Government Act 1972.
  - 4.10 the appointment, removal, and substitution of members on committees of the Council and on joint authorities.
  - 4.11 the appointment, removal, and substitution of members to serve on joint committees and other bodies, insofar as they are not concerned with executive functions.
  - 4.12 the appointment of the Chairs of Overview and Scrutiny Committees, Ordinary Committees and Advisory Committees.
  - 4.13 establishing and control of the political balance requirements.
  - 4.14 functions relating to changing governance arrangements under Part 1A of the Local Government Act 2000.

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

4.15 functions relating to community governance under the Local Government and Public Involvement in Health Act 2007 in relation to:

- community governance reviews under Section 79 of the 2007 Act;
- community governance petitions under Sections 80, 83 to 85 of the 2007 Act;
- terms of reference of review under Sections 81(4) to (6) of the 2007 Act;
- power to undertake a community governance review under Section 82 of the 2007 Act;
- making of recommendations under Sections 87 to 92 of the 2007 Act;
- duties when undertaking review under Section 93 to 95 of the 2007 Act;
- duty to publicise outcome of review under Section 96 of the 2007 Act;
- duty to send two copies of order to Secretary of State and Electoral Commission under Section 98(1) of the 2007 Act; and
- power to make agreements about incidental matters under Section 99 of the 2007 Act.

RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

**EMPLOYEE APPEALS COMMITTEE**

**Delegations**

1. To determine appeals against dismissal.

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

### **PERSONNEL COMMITTEE**

1. To establish at the appropriate time panels of members to act as appointment panels for the appointment of the Chief Executive, Chief Officers and designated Deputy Chief Officers.
2. To determine which Deputy Chief Officer posts should be designated to be appointed by a panel of members.
3. To determine collective and corporate terms and conditions of staff.
4. To consider major Staffing and Organisational Reviews.
5. To provide the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer with such staff as are in their opinion sufficient to allow their statutory duties to be performed.
6. To determine "market rates" supplements.
7. To determine the assignment and re-grading of posts:
  - above SCP57 (Grade 12) and below £100,000 p.a.; or
  - up to and including SCP57 (Grade 12) where there is disagreement between the Chief Executive or Director of Human Resources and the relevant Chief Officer, or where the Chief Executive considers that the matter has corporate significance.
8. To determine the payment of honoraria exceeding 12 months duration in respect of posts above Grade 12.
9. To determine claims arising under the Scheme of Allowances for employees injured in the course of their employment above £10,000.
10. To determine policies relating to local government pensions and discretionary compensation for early termination of employment.
11. To constitute the Employers' side of any Local Joint Committee with the relevant trade unions.
12. To make recommendations to Council in relation to the annual Pay Policy Statement and any amendments to such statement.
13. To make recommendations to Council in relation to decisions affecting the remuneration of any post whose remuneration is or is proposed to be or would become £100,000 p.a. or more, and in relation to proposed severance packages with a value of £100,000 or more.

### **Delegation**

In exercising the above powers and responsibilities, the Committee shall have delegated power (subject to Council Procedure Rule 9 – Reference to Council of decisions taken



## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

under Delegated Powers) to make decisions on behalf of the Council, except in relation to delegations 12 and 13 or any matter where:

- (a) the Head of the Paid Service determines the matter should be considered by full Council, or
- (b) the Council has resolved to determine the matter

**Note:** The Committee may itself determine not to exercise its delegated powers and instead make recommendations to Council.

## RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

### **HEALTH AND WELLBEING BOARD**

1. To encourage, for the purpose of advancing the health and wellbeing of people in Manchester, persons who arrange for the provision of any health or school care services in Manchester to work in an integrated manner.
2. To provide such advice, assistance or other support as appropriate for the purpose of encouraging partnership arrangements under section 75 of the National Health Service Act 2006 between the Council and NHS bodies in connection with the provision of health and social care services.
3. To encourage persons who arrange for the provision of health-related services (i.e. services which are not health or social care services but which may have an effect on the health of individuals) to work closely with the Board and with persons providing health and social care services.
4. To exercise the functions of the Council and its partner Clinical Commissioning Groups in preparing a joint strategic needs assessment under section 116 of the Local Government and Public Involvement in Health Act 2007 and a joint health and wellbeing strategy under section 116A of that Act.
5. To give the Council the opinion of the Board on whether the Council is discharging its duty to have regard to the joint strategic needs assessment and joint health and wellbeing strategy in discharging the Council's functions
6. To exercise such other Council functions which are delegated to the Board by the Council or the Leader.
7. To appoint such sub-committees or joint sub-committees as the Board considers appropriate.



# **Section D**

## **Area Committees**

## RESPONSIBILITY FOR AREA COMMITTEES

### SECTION D: RESPONSIBILITY FOR FUNCTIONS BY AREA COMMITTEES

#### WYTHENSHAWE AREA COMMITTEE

Pursuant to Article 10 of Part 2 of this Constitution, the Council has established a Wythenshawe Area Committee. The Committee consists of the 15 councillors representing the following wards:

Baguley  
Brooklands  
Northenden  
Sharston  
Woodhouse Park

The Committee has the terms of reference and responsibilities set out below

#### Delegations

1. To fulfil the role as the primary vehicle for consultation with the local community on all issues affecting the Wythenshawe area and to represent the views of the area on problems, needs and deficiencies which ought to be dealt with and to which the Council should direct its attention.
2. To determine applications for development within Wythenshawe, including applications for consent to display advertisements and proposals for Crown Development, but excluding applications where the Committee is minded to take a decision contrary to the professional opinion of the Head of Planning, applications for listed building and conservation area consent and applications for planning permission where by reason of their scale or the provisions of City Council policies the proposals are considered by the Head of Planning to be of more than local significance.
3. To call public meetings to discuss any question relating to the area.

#### Recommendations

4. To review and report to the Executive on the means by which the Council's assets in Wythenshawe can be channelled to meet community objectives.
5. To make comments to the Planning and Highways Committee on major development proposals as they relate to the area.
6. To refer to the Planning Committee individual development proposals within Wythenshawe where members of the Area Committee are minded to vote against the recommendation of the Head of Planning in the report.
7. To oversee and advise the Executive on the input of the various Departments into management of Wythenshawe Forum and the Civic Centre area.

## **Section E**

# **Overview and Scrutiny Committees**

**SECTION E: RESPONSIBILITY FOR OVERVIEW AND SCRUTINY COMMITTEES**

Pursuant to Article 6 of Part 2 of this Constitution, the Council has established 6 Overview and Scrutiny Committees to discharge the functions set out in Section 21 of the Local Government Act 2000 and in Article 6.

The Overview and Scrutiny Committees, membership and the specific remit of each committee is as set out below:

Committee	Membership	Remit
<p><b>Young People and Children</b></p>	<ul style="list-style-type: none"> <li>▪ At least ten elected members of the Council</li> <li>▪ One representative of the Diocese of Manchester</li> <li>▪ One representative of the Diocese of Salford and Shrewsbury</li> <li>▪ One representative of King David's Schools</li> <li>▪ Three elected parent governor representatives</li> <li>▪ Two teacher representatives as non-voting co-opted members</li> </ul>	<p>To exercise overview and scrutiny functions in relation to the Council's Children's Services functions and other matters affecting children and young people, including –</p> <ul style="list-style-type: none"> <li>▪ School Standards and Improvement</li> <li>▪ Children and Families</li> <li>▪ Early Years (0-5's) and Play</li> <li>▪ Children with Special Educational Needs</li> <li>▪ Safeguarding Arrangements</li> <li>▪ Education and Skills Development (for ages 0-15)</li> <li>▪ Disabled Children</li> <li>▪ Valuing Young People</li> </ul>
<p><b>Communities (the designated Crime and Disorder Committee)</b></p>	<ul style="list-style-type: none"> <li>▪ At least ten elected members of the Council</li> </ul>	<p>To exercise overview and scrutiny functions in relation to matters concerning citizenship and inclusion, including –</p> <ul style="list-style-type: none"> <li>▪ Community Cohesion</li> <li>▪ Respect Agenda</li> <li>▪ Equality and Inclusion</li> <li>▪ Older People</li> <li>▪ Information and Advice Services</li> <li>▪ Youth Offending/Disorder</li> <li>▪ Domestic Violence/Abuse</li> <li>▪ Crime and Policing</li> </ul> <p>To review and scrutinise decisions or actions taken in connection with the discharge by the responsible authorities of their crime and disorder functions, namely-</p> <ul style="list-style-type: none"> <li>▪ Reduction of crime and disorder (including anti-social and other behaviour adversely affecting</li> </ul>

OVERVIEW AND SCRUTINY COMMITTEES

		<p>the local environment)</p> <ul style="list-style-type: none"> <li>▪ Combating the misuse of drugs, alcohol and other substances and reducing re-offending</li> </ul>
<b>Neighbourhoods</b>	<ul style="list-style-type: none"> <li>▪ At least ten elected members of the Council</li> </ul>	<p>To exercise overview and scrutiny functions in relation to matters concerning communities and neighbourhoods, including –</p> <ul style="list-style-type: none"> <li>▪ Waste</li> <li>▪ Street Management</li> <li>▪ Carbon Emissions and Climate Change</li> <li>▪ Planning</li> <li>▪ Highways</li> <li>▪ Culture, Libraries and Theatres</li> <li>▪ Housing</li> <li>▪ Leisure and Sport</li> <li>▪ Neighbourhood Working</li> <li>▪ Flood Management</li> </ul>
<b>Economy</b>	<ul style="list-style-type: none"> <li>▪ At least ten elected members of the Council</li> </ul>	<p>To exercise overview and scrutiny functions in relation to matters relating to the economy, employment and skills, including –</p> <ul style="list-style-type: none"> <li>▪ Economic Growth</li> <li>▪ Strategic Transport</li> <li>▪ Employment</li> <li>▪ Regeneration</li> <li>▪ Tourism</li> <li>▪ Voluntary Sector</li> <li>▪ City Region</li> <li>▪ Core Cities</li> <li>▪ Skills Development (aged 16+)</li> <li>▪ Worklessness</li> </ul>
<b>Health</b>	<ul style="list-style-type: none"> <li>▪ At least ten elected members of the Council</li> </ul>	<p>To exercise overview and scrutiny functions in relation to any matter relating to the planning, provision and operation of health services in Manchester, to issues affecting the health and well-being of the community, including -</p> <ul style="list-style-type: none"> <li>▪ Adult Social Care</li> <li>▪ Aspiration and Well-being</li> <li>▪ Health Services</li> <li>▪ Health Inequalities</li> <li>▪ Health Protection and Safeguarding</li> <li>▪ Public Health and Healthy Living</li> <li>▪ Mental Health and Well-being</li> </ul>



OVERVIEW AND SCRUTINY COMMITTEES

		<ul style="list-style-type: none"> <li>▪ Patient and Public Involvement</li> <li>▪ CQC Inspections of Health and Social Care Provision</li> <li>▪ Any matter relating to health or social care services or providers referred by Healthwatch</li> </ul>
<p><b>Finance</b></p>	<ul style="list-style-type: none"> <li>▪ At least ten elected members of the Council</li> </ul>	<p>To exercise overview and scrutiny functions in relation to resources and governance including those not falling within the remit of the other Overview and Scrutiny Committees and -</p> <ul style="list-style-type: none"> <li>▪ Finance and Budget Setting</li> <li>▪ Capital Programme</li> <li>▪ Procurement &amp; Commissioning</li> <li>▪ Property Management</li> <li>▪ Human Resources</li> <li>▪ Corporate and Partnership Governance</li> <li>▪ City Region Governance</li> <li>▪ Revenue and Benefits</li> <li>▪ ICT</li> </ul>

# SECTION F

## Scheme of Delegation to Officers

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# **CHAPTER 1**

## **INTRODUCTION**

1. Officers may only exercise the delegated powers in this Scheme in accordance with:
  - 1.1 statute or other legal requirements, including the principles of public law, the Human Rights Act 1998, statutory guidance and statutory codes of practice.
  - 1.2 the Constitution, the Council's Register of the Delegation of Executive Functions, Standing Orders and Financial Regulations of the Council.
  - 1.3 the revenue and capital budgets of the Council, subject to any variation thereof which is permitted by the Council's financial regulations.
2. Officers may not exercise delegated powers where -
  - 2.1. the matter is reserved to the Council by law or by the Council's Constitution.
  - 2.2. the matter is a function which cannot by law be discharged by an officer.
  - 2.3. the Council, a Committee or Sub-committee (in the case of a non-executive function), or the Leader or the Executive (in the case of an executive function), has determined that the matter should be discharged otherwise than by an officer.
  - 2.4. the relevant Executive Member or the Leader of the Council (in the case of an executive function) has directed that the matter should be referred to the Executive or the appropriate committee or sub-committee for determination.
  - 2.5. the Chief Executive has directed that the officer concerned should not exercise a delegated function in special circumstances.
3. Subject to 1 above, officers may not exercise delegated powers in a way contrary to the policies and plans approved by or on behalf of the Council.
4. Before exercising delegated powers, particularly on matters involving the reputation of the Council, officers should consider the advisability of consulting the Chief Executive or the appropriate Strategic Director and/or the appropriate Executive Member.
5. Before exercising delegated powers, on matters of significance to a particular ward or wards, officers should consult, where practicable, the relevant ward councillors.
6. The delegated powers of Officers set out in this Scheme may be exercised by other officers authorised by the Officer with the delegated power to act on their behalf and in their name, provided that administrative procedures are in place to record the authorisation and to record and monitor decisions so taken.

## SCHEME OF DELEGATION TO OFFICERS

7. Any reference in this Scheme of Delegation to any enactment shall include a reference to any amendment to or re-enactment of the same.
8. For the purposes of this Scheme, the term "Chief Officer" will be defined as any of those officers included in Chapter 2 of this Scheme.
9. Where an officer has delegated authority to discharge functions by virtue of any other provision of this Constitution or a specific decision of the Council, a committee, a sub-committee (in the case of a non-executive function) or the Leader or the Executive (in the case of an executive function) whether made before or after the adoption of this Scheme, the absence of that delegation from this Scheme shall not be treated as preventing the exercise of that delegation.
10. Where an officer takes a "key decision", a record of that decision must be made in accordance with Rule 25.3 of the Access to Information Procedure Rules in Part 4 Section B of this Constitution.
11. Where, in relation to an item before the Council, the Executive or a Committee, an officer is given specific authority to determine a particular matter, the officer should ensure that there is an appropriate audit trail to evidence such determination.
12. Where an officer has delegated authority to discharge functions in consultation with an Executive member, in the absence of that Executive member the officer may discharge such function in consultation with the Leader instead (or in the Leader's absence, in cases of urgency, with the Deputy Leader).
13. Where the delegation provides for discharge of a function in consultation with the Leader, in the absence of the Leader the officer may discharge the function in case of urgency in consultation with the Deputy Leader instead.
14. Where an officer who is not a Strategic Director (as defined in Part 8 of this Constitution) has delegated authority to discharge a function ("the delegated function") by virtue of this Constitution, the relevant Strategic Director in relation to that officer or post may discharge the delegated function where that officer is unable to act, through absence or otherwise, or where the post with the delegated function is vacant.
15. The delegations in this Scheme of Delegation include the discharge of both executive and non-executive functions.
16. The Scheme describes particular functions as executive functions and non-executive functions for illustrative purposes only, and misattribution of a function as executive or non-executive shall not be treated as preventing the exercise of the delegation.

**GENERAL DELEGATIONS TO ALL CHIEF OFFICERS/STRATEGIC DIRECTORS**  
**AND**  
**OFFICERS INCLUDED IN CHAPTER 3A**

*The delegations below may only be exercised by Officers in connection with their own service.*

**General Functions**

These functions can be either Executive or Non-Executive depending on the circumstances.

1. To determine officer attendance on visits (including visits abroad).
2. To determine officer and Member attendance at Conferences/Seminars, (including those held abroad) in consultation with the appropriate Chair or Executive Member.
3. To determine Member attendance on visits (including visits abroad) in consultation with the appropriate Chair or Executive Member.
4. Subject to any delegations to specific Chief Officers, the appointment and removal of representatives to serve on relevant outside organisations.
5. To determine fees and charges (where there is an express power to charge) in consultation with the appropriate Chair or Executive Member.
6. To reduce elements of fees and charges for individual events or items whereby such action will increase, overall, the income to the Council.
7. To agree, in consultation with the appropriate Chair or Executive Member, increases in fees and charges.
8. Service of statutory notices or orders and/or arranging for the execution of work consequent on non-compliance with such notices or orders in relation to aspects of their service in consultation where appropriate with the Chief Executive.

**Non-Executive Functions**

**Financial**

9. To agree payments not exceeding £1000 in cases of maladministration.
10. To maintain a departmental register of interests in which is recorded any hospitality or gifts which are accepted by an employee or any pecuniary interest in a contract which is declared by an employee and authorised by a Strategic Director in accordance with the Code of Conduct for Employees set out in Part 6 Section E of this Constitution.
11. To approve financial assistance for private legal proceedings on behalf of employees, on the advice of the City Solicitor, where the police/Crown Prosecution Service have declined to prosecute in cases of violence to employees.

## SCHEME OF DELEGATION TO OFFICERS

### Human Resources

12. Assignment of temporary posts which are for a period not exceeding 12 months.
13. Filling of vacant posts within approved establishments except Chief Officer and Deputy Chief Officer posts, subject to the approval of the Deputy Chief Executive (Performance).
14. Assignment of additional posts at grades up to and including Spinal Column Point 31 or equivalent in categories of posts where there is already an agreed job description and a grade fixed for the post by the Chief Executive.
15. Agreement to employees progressing beyond the competency bar.
16. In exceptional circumstances granting acceleration of increments for any staff within their substantive grade for merit and ability, in consultation with the Assistant Chief Executive (People).
17. The determination of applications for paid and unpaid leave: -
  - 17.1 for trade union training with special regard to the Council's policies on equal opportunities and to courses directed towards equal opportunity issues;
  - 17.2 for health and safety training;
  - 17.3 for paid leave for an employee to discharge her/his duties of the office of President of a Trade Union;
  - 17.4 for an employee to attend meetings etc with pay as a Member of another local authority, or similar public body on condition that the employee only receives the difference between pay and any amount receivable under Local Government Regulations etc. This does not include an employee attending such a body in their official capacity which would be as part of their official duties;
  - 17.5 for personal or domestic reasons;
  - 17.6 for maternity and paternity leave;
18. Determination of extensions of sickness allowance up to a maximum of one year on full pay, in consultation with the Assistant Chief Executive (People).
19. Determination of casual or essential car users allowances to officers.
20. In exceptional circumstances determination of planned overtime for officers above Spinal Column Point 31, in consultation with the City Treasurer.
21. Determination of the payment of removal expenses, lodging allowances or travelling allowances.

## SCHEME OF DELEGATION TO OFFICERS

22. Determination of requests for the reimbursement of post-entry training and examination fees.
23. Determination of proposals to attend training courses.
24. Determination of proposals for the retention fees for trainers.
25. Determination of staff grievances.
26. Discipline, suspension and/or dismissal of employees.
27. Authority to assimilate staff on appointment, promotion or regrading where appropriate within the approved grade having regard to all the circumstances, on the basis of a clear business case and in consultation with the Assistant Chief Executive (People).

### Miscellaneous

28. Compliance with the provisions of the Health and Safety policy of the Council.
29. To require information as to interests in land under Section 16 of Local Government (Miscellaneous Provisions) Act 1976.
30. To submit applications for deemed planning consent in respect of development by the Council.

### **Executive Functions**

#### Business Plan/Policy

31. Implementation in conjunction with Heads of Service of Departmental Business Plans and delivery of service as defined therein within the annual cash limited net budget allocation identified to a particular service area within the overall approved Council budget.

#### Financial

32. To accept tender(s) or bid(s) for the carrying out of works for the Council, the purchase, leasing or hiring of goods, materials and equipment by the Council, or the supply of services to the Council, where the estimated contract value does not exceed £250,000 or where it does exceed £250,000 with the agreement of the Chief Executive and the City Treasurer, provided in all cases that budget provision is available.
33. To enter into contract documentation following tender/bid acceptance (subject to the provisions of Financial Regulations relating to contract formalities and the execution of contracts under seal).
34. To negotiate and agree price increases where a contract provides for price increases to be negotiated and agreed by the parties, subject to the agreement of the City Treasurer.

## SCHEME OF DELEGATION TO OFFICERS

35. The assignment or novation of a contract.
36. The approval of the appointment of or the acceptance of the tender of a sub-contractor or supplier for the specialist work or material provided that this does not result in the budget provision for the works as a whole being exceeded.
37. Provided that authority to let a contract has been obtained: -
  - 37.1 Acceptance of the highest tender or bid for the award of concession/sponsorship contracts and the acceptance of other than the highest tender or bid with the agreement of the Chief Executive and the City Treasurer.
  - 37.2 Entry into contract documentation following tender/bid acceptance (subject to the provisions of Financial Regulations relating to contract formalities and the execution of contracts under seal).
38. To bid and tender for and enter into contract documentation for the supply of works, goods or services to other bodies where provided for in the relevant Business Plan (subject to the provisions of Financial Regulations relating to contract formalities and the execution of contracts under seal).
39. Virement between heads of revenue expenditure of up to £50,000 or capital expenditure of up to £25,000 (or in each case £100,000 with the approval of the City Treasurer) provided that such virement does not result in increased commitment in future years.
40. Subject to the agreement of the City Treasurer: -
  - 40.1 the writing off of debts which are irrecoverable or losses due to burglaries, etc; and
  - 40.2 the writing off or making adjustments in respect of deficiencies or surpluses of stock, equipment, etc.
41. Provision of reasonable hospitality to representatives of other authorities visiting the Department or premises under the Chief Officer's control, subject to agreement by the Chief Executive for expenditure in excess of £500.
42. To make grants and loans to voluntary and other organisations.
43. To vary the price of goods and services supplied, in accordance with changes in the cost incurred by the City Council, in consultation with the City Treasurer.
44. To negotiate and agree variations in contracts arising out of statutory requirements.
45. Determination of ex-gratia claims for damage to, or loss of, personal property subject to the approval of the City Solicitor for claims in excess of £1000.
46. To settle claims not exceeding £1000 in line with the Council's procedure for low value claims handling.



## SCHEME OF DELEGATION TO OFFICERS

47. Disposal of surplus or obsolete equipment, (except vehicles) to the highest tenderer.

### Land and Property

48. Management of land, property, accommodation and facilities held or used for a purpose within the Chief Officer's remit.

a. To undertake, in consultation with the appropriate Chair and/or Executive Member, an annual review of all land and property so held or used.

b. Where land and property is no longer used or required for the purpose for which it was originally acquired or appropriated, to declare (in consultation with the appropriate Chair and/or Executive Member) such land or property surplus to requirements, and to notify immediately such decision to the Head of Corporate Property, who will make arrangements for the management or disposal of the property or its appropriation to another function.

49. Repair and maintenance of buildings and upkeep of grounds.

50. The authorisation of repairs or adaptations by lessees or occupiers in respect of property owned by the Council and under the appropriate Chief Officer's control.

51. Authorising the use of premises for political meetings (other than public election meetings in accordance with the provisions of the Representation of the People Act 1983) but with a discretion for the Chief Officer to refuse any such application, after consultation with the Leader of the Council, the Leader of the Opposition and the Chief Executive, where the Chief Officer is of the opinion that a breach of the peace, injury to persons, damage to the Council's premises or equipment, is likely to arise should such a meeting take place.

52. Temporary closure of premises.

53. Determination of hours of opening of premises and facilities, including seasonal arrangements and closure during holiday periods.

### Miscellaneous

54. Production of publications, relating to the service provided, for sale or free distribution to the public, subject to Section 2 of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity.

55. Authorisation to statutory authorities to carry out essential works.

56. To determine requests for the installation of wireless receiving apparatus, telecommunications installations, electricity sub-stations and other minor works in or on any land or property under their management in consultation with the Chief Executive.

57. To respond to consultation papers relating to matters within the Chief Officer's remit, subject to consultation with the appropriate Executive Member and (where the matter has corporate significance) the Chief Executive.

## SCHEME OF DELEGATION TO OFFICERS

58. To exercise the functions of the Council pursuant to Section 115 (disclosure of information to a relevant authority) of the Crime and Disorder Act 1998.

# **CHAPTER 2**

## **CHIEF EXECUTIVE**

The holder of the post of Chief Executive shall be responsible for the management of the Chief Executive's Department and without prejudice to the foregoing, shall have power subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations, and any legal requirements, to:

### **General Functions**

These functions can be either Executive or Non-Executive depending on the circumstances.

1. Discharge any function of the Council and Executive which has not been specifically delegated to another officer, committee or otherwise reserved by full Council or Executive and may direct any Chief Officer not to exercise a delegated function in special circumstances unless they are required to do so by law.
2. Authorise officers to enter premises in exercise of specific statutory powers.
3. Take any action which is required as a matter of urgency in the interests of the Council, in consultation with the Leader, if time permits.
4. Take preliminary steps to protect the rights and interests of the Council subject to consultation with the Leader in relation to any Bill or Statutory Instrument or Order in Parliament.
5. Nominate, appoint and remove, in consultation with the Leader, Council representatives on the board of companies, trusts and other bodies (including those companies, trusts and other bodies on which the Council has representatives who have been nominated by other bodies, such as AGMA) and to agree constitutional arrangements for such companies, trusts and other bodies and give any necessary consent required within relevant constitutions.

### **Non-Executive Functions**

6. Discharge the functions of the Council relating to parliamentary, local government and European parliamentary elections and referenda:
  - 6.1 Power to assign officers in relation to requisitions of the registration officer
  - 6.2 Duty to provide assistance at European Parliamentary elections
  - 6.3 Powers in respect of holding of elections
  - 6.4 Power to pay expenses properly incurred by electoral registration officers
  - 6.5 Power to fill vacancies in the event of insufficient nominations
  - 6.6 Duty to declare vacancy in office in certain cases
  - 6.7 Duty to give public notice of a casual vacancy
  - 6.8 Duties relating to publicity
  - 6.9 Duties relating to notice to Electoral Commission

## SCHEME OF DELEGATION TO OFFICERS

7. In conjunction with the City Treasurer, administer the scheme of Members' allowances, and to uprate such allowances annually in accordance with the formula agreed by the Council.
8. Agree in consultation with the Leader, starting salaries (within the range determined by the Council) on appointment of Chief Officers and for any assimilations into revised grades if the Chief Officer's post is re-graded.
9. Without prejudice to the power of individual Chief Officers in relation to the assignment of posts up to and including SCP31 (Grade 6), to determine in consultation with the Deputy Chief Executive (Performance) the assignment and regrading of posts up to and including SCP57 (Grade 12), unless there is a disagreement between the Chief Executive or the Deputy Chief Executive (Performance) and the appropriate Chief Officer about the proposals, or, where the proposals have corporate significance, in which cases the matter shall be determined by the Personnel Committee.
10. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981, or an order under section 147 of the Inclosure Act 1845.
11. Power to register variation of rights of common.
12. To discharge the Council's functions relating to the registration of common land and town or village greens pursuant to Part 1 of the Commons Act 2006 and the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations.

### **Executive Functions**

#### **Financial**

13. Incur expenditure (including the making of grants and loans) up to £100,000 and above that level (up to £500,000) in consultation with the Leader, for the purposes of promoting or improving economic social or environment well-being of the City consistent with the City Council's Sustainable Community Strategy.
14. Make all decisions relating to the reclaim of capital grants, cessation of revenue grants and variation to any legal agreement (including financial returns to the City Council) in relation to the above expenditure.
15. Determine applications (in consultation with the Leader) for financial assistance for anti-deportation campaigns up to a maximum of £500.
16. Administer, following consultation with the Leader, the economic regeneration fund for the purposes of improving services, keeping and generating jobs, attracting visitors to the City, or raising Manchester's national and international profile.

## SCHEME OF DELEGATION TO OFFICERS

17. Be responsible for Capital Investment bids for the refurbishment of property, changes in office layout, replacement of lifts, heating and other plant.

### Human Resources

18. Maintain the list of Senior Nominated Officers in connection with establishment arrangements for the protection of children.
19. Authorise the appointment of consultants and professional advisors.

### Land and Property

20. Accept any offer or tender for the disposal of land or property, provided the offer or tender is in the opinion of Head of Corporate Property the best consideration that can reasonably be obtained.
21. Agree and arrange for, the disposal of land and property, and any other interests in land and property subject to the consent of the Executive in the case of disposals of the freehold (other than freehold disposals for the purposes of the economic well being of the area, or of plots of land of no strategic importance and incapable of being developed on their own, or where the Leasehold Reform Act will eventually require a freehold sale, in which cases Executive consent is not required).
22. Agree terms for the sale of land and property where the Council's property is subject to compulsory purchase by another body.
23. Dedicate where appropriate Council owned land as a highway.

### Manchester Airport.

24. Grant consent to the waiver of covenants or to variations to the Leases granted to Manchester Airport plc where these are urgently required to enable the Company to carry out specific development projects.
25. Acquire land and property within the Airport's operational area on behalf of Manchester Airport PLC subject to no net cost to the Council being incurred and to the basis of the purchase and the provisional terms being approved by the Airport Board.
26. Exercise any functions of the Council under the byelaws relating to Manchester Airport, including the authorisation of persons to act on behalf of the Council.

### Development Briefs

26. Approve development briefs in consultation with the Leader and other relevant Executive Members.

### Miscellaneous

27. Deal with emergencies and disasters and the carrying out of civil defence functions.

## SCHEME OF DELEGATION TO OFFICERS

28. Control and co-ordinate press and media relations, the organisation of press conferences, publicity and public relations including approval of the issue of all official publicity and official publications.
29. Deal with issues relating to the Commission for Local Administration provided that: -
  - 29.1 Complaints involving Members shall be notified to the Member concerned and the Leaders of the majority and minority parties;
  - 29.2 Complaints involving the Chief Executive shall be undertaken by a Chief Officer nominated by the Leader;
  - 29.3 The Leader shall be consulted about statements to be published with the Local Commissioner.
30. Determine applications to advertise on Council vehicles.
31. Determine arrangements for civic hospitality.
32. Determine attendance at conferences where more than one service is involved in consultation with appropriate Executive Members, Chairs and Chief Officers.
33. The authorisation of officers to serve suspension notices and / or apply for forfeiture on behalf of the City Council under the provisions of the Consumer Protection Act 1987.
34. Attend and vote on behalf of the City Council at Manchester Airport PLC meetings, including meetings of any associated companies of Manchester Airport PLC and to nominate a member of staff to attend and vote where the Chief Executive is unable to do so.
35. Attend and vote on behalf of the City Council at meetings of any other company or organisation of which the Council is a member, and to nominate a member of staff to attend and vote where the Chief Executive is unable to do so.

*The CHIEF EXECUTIVE is designated as the Council's HEAD OF PAID SERVICE for the purposes of Section 4 of the Local Government and Housing Act 1989. The duties of the Head of Paid Service are to report to the Council where necessary setting out proposals with respect to the co-ordination of the Council's functions, the number and grades of staff required and the organisation, appointment and proper management of the Council's staff.*

*The Chief Executive is also:*

- a. *The electoral registration officer.*
- b. *The returning officer for the election of Councillors.*
- c. *The proper officer:*
  - a. *responsible for the list of politically restricted posts;*

SCHEME OF DELEGATION TO OFFICERS

- b. (together with the City Solicitor) in respect of declarations of acceptance of office for the purpose of Section 83 of the Local Government Act 1972;*
- c. for the purpose of any enactment, unless the Council or this Constitution designates another officer for the purpose of a specific enactment.*

## **CITY SOLICITOR**

The holder of the post of City Solicitor shall be responsible for the management of the City Solicitors Division of the Chief Executive's Department and without prejudice to the foregoing, shall have power subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations, and any legal requirements, to:

### **General Functions**

These functions can be either Executive or Non-Executive depending on the circumstances.

1. To institute, conduct, prosecute and defend any legal proceedings on behalf of the City Council, or where the Council considers it expedient for the protection or the promotion of the interests of the inhabitants of the City, subject to consultation with the Leader in any case where the Council is to appeal to the Court of Appeal or the House of Lords.
2. To settle, if appropriate, and in the interests of the Council, any actual or threatened legal proceedings.
3. To recover debts due to the Council by way of legal proceedings and the levying of distress on goods and chattels.
4. To instruct Counsel and professional advisers, where appropriate.
5. To determine procedural arrangements for the issue of all consents, refusals, decisions and notices on behalf of the Council under statutory power.
6. To give undertakings on behalf of the Council
7. To give indemnities on behalf of the Council to organisations for the use of their facilities or to persons or bodies to whose land access is required by the Council to carry out any development or works.
8. To determine applications made under the Council's Scheme of Allowances to employees injured in the course of their employment up to a maximum of £10,000.
9. To prepare, seal or sign documents.
10. To authorise other officers to seal documents in accordance with Article 14.5 of Part 2 of the Constitution, or to sign documents which are not required to be under seal.
11. To accept on behalf of the Council the service of notices, orders and legal procedures.

### **Non-Executive Functions**

12. To discharge the delegations set out in Article 12.3 (c) of Part 2 of this Constitution in connection with the Code of Conduct for Members and the Council's Arrangements for dealing with complaints that members have failed to comply with the Code of Conduct.



## SCHEME OF DELEGATION TO OFFICERS

13. To grant dispensations under Section 31 (4) of the Localism Act 2011 in the circumstances set out in Article 12.3 (c) (ix) of Part 2 of the Constitution.
14. Make arrangements for reviews of the permanent exclusion of pupils.
15. Make arrangements for appeals by governing bodies.
16. Approve premises for the solemnisation of marriages and civil partnerships.
17. Maintain a register of common land and a register of town or village greens.
18. Power to apply for an enforcement order against unlawful works on common land pursuant to Section 41 of the Commons Act 2006.
19. Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference pursuant to section 45(2) of the Commons Act 2006.
20. Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens pursuant to section 45(2)(b) of the Commons Act 2006.

### **Executive Functions**

21. To complete all property transactions and contractual arrangements where terms have been agreed by the Council or Committees or Chief Officers acting under the scheme of delegation.
22. Under Section 223 of the Local Government Act 1972 to authorise officers who are not admitted solicitors to appear in Magistrates' Court on behalf of the Council.
23. Under Section 60 of the County Courts Act 1984, to authorise officers of the Council to conduct actions on behalf of the Council in the County Court before a district judge in respect of: -
  - 23.1 the recovery of possession of houses and other property belonging to the Council;
  - 23.2 the recovery of any rent, mesne profits, damages or other sum claimed by the Council in respect of the occupation by any person of such a house.
24. To serve Notices to Quit in respect of Council land and properties and other notices required to terminate tenancies or otherwise secure recovery of possession.
25. To serve notices and enter into agreements with respect to the making-up of new streets.
26. To exercise the functions of the Council pursuant to Section 1 of the Crime and Disorder Act 1998 (Anti-Social Behaviour Orders)
27. To determine exemptions under Section 36 of the Freedom of Information Act 2000.

## SCHEME OF DELEGATION TO OFFICERS

28. To arrange for the discharge of the Council's functions relating to petitions.
29. To arrange for the discharge of the Council's functions relating to Local Land Charges.
30. When authorised by Council, to apply to the Secretary of State for consent to dispose of land under Sections 32 and 43 of the Housing Act 1985.
31. To appoint a secretary to Local Access Forums and to provide administration and support to the same and its members.
32. Without prejudice to the generality of the above delegations: -
  - 32.1 To prosecute any person who places or maintains a notice deterring public use Access Land under Section 14 of the Countryside and Rights of Way Act 2000.
  - 32.2 To make byelaws in relation to Access Land and to prosecute contravention of such byelaws.
  - 32.3 To defend appeals against notices served under Section 36(3) and 37(1) of the Countryside and Rights of Way Act 2000.
  - 32.4 To prosecute for obstruction of persons entering land, pursuant to Section 40 of the Countryside and Rights of Way Act 2000.
33. To maintain a list of assets of community value, pursuant to Part 5 (Chapter 3) of the Localism Act 2011.

*The CITY SOLICITOR is designated as the Council's MONITORING OFFICER for the purposes of Section 5 of the Local Government and Housing Act 1989. The functions of the monitoring officer are listed in Article 12.3 in Part 2 of the Constitution and include:*

- *Report on contraventions or likely contraventions of any enactment or rule of law.*
- *Report on any maladministration or injustice where the Ombudsman has carried out an investigation.*
- *Appointment of a Deputy.*
- *Power to delegate functions of the Monitoring Officer.*
- *Establish and maintain the Register of Members' interests.*
- *Maintain, monitor and review the Constitution.*
- *Support the Standards Committee.*
- *Promote and maintain high standards of conduct.*
- *Advise on whether executive decisions are within the Budget & Policy Framework.*
- *Provide advice on vires issues, maladministration, financial impropriety, probity, Budget and Policy Framework issues to all members.*

*The City Solicitor is also:*

- 1. Authorised to act as Solicitor to the Council.*
- 2. The Clerk to the Independent Education Appeals Panel and authorised to appoint lay members to serve on the Panel.*
- 3. The monitoring officer for Ringway Parish Council.*

## SCHEME OF DELEGATION TO OFFICERS

4. *The Senior Responsible Officer on behalf of the Council in relation to Part 1 of the Regulation of Investigatory Powers Act 2000.*
5. *Responsible for approving and authorising officers to act as: -*
  - a. *An Authorising Officer in relation to Part 2 of the Regulation of Investigatory Powers Act 2000, and*
  - b. *A designated person and single point of contact in relation to Part 1 of the Regulation of Investigatory Powers Act 2000.*
6. *The proper officer:*
  - a. *for the purposes of Sections 225 (Deposit of Documents) and 229 (Certification of Photocopies) of the Local Government Act 1972.*
  - b. *in respect of declarations of acceptance of office for the purpose of Section 83 of the Local Government Act 1972.*
  - c. *for the Registration of Births, Deaths and Marriages or to nominate in writing another officer to be the Proper Officer.*
  - d. *for Access to Information.*

## **CITY TREASURER**

The holder of the post of City Treasurer shall be responsible for the management of the Corporate Services Department and without prejudice to the foregoing, shall have power subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations and any legal requirements, to:

### **General Functions**

1. To exercise the responsibilities assigned to the City Treasurer in the Financial Regulations.
2. In consultation with the Executive Member for Finance and Human Resources, to determine the Council tax base pursuant to the Local Government Finance Act 1992 and the Local Authorities (Calculation of Council Tax Base (England) Regulations 2012.
3. To calculate the Council's business rate income, including the share of such income of central government and the GMFRA and such other calculations in relation to business rate income as may be required by the Local Government Finance Acts 1988 and 2012 and any regulations made thereunder.
4. To approve From NNDR1 and notify relevant business rate calculations to the Secretary of State and the GMFRA.
5. To agree dates for payment of their respective shares of Council tax with the Police and Crime Commissioner and GMFRA and of business rates with central government and GMFRA.

### **Non-Executive Functions**

6. Determine appeals against the decisions of Officers to remove companies from approved lists of contractors in relation to the execution of works and the supply of goods and services.
7. Subject to 8 and 10 below, to exercise the functions of the authority in relation to pensions.
8. In consultation with the Executive Member for Finance and Human Resources and the relevant Chief Officer, to determine applications for voluntary early retirement (including compassionate early retirement and flexible retirement) and to determine discretionary payments/awards in connection with such applications in accordance with the Council's policy statement.
9. In consultation with the Executive Member for Finance and Human Resources and the City Solicitor, to determine requests for guarantees to the Greater Manchester Pension Fund from bodies entering into admission agreements with the Fund.

## SCHEME OF DELEGATION TO OFFICERS

10. Be the person specified to determine disputes in the first instance arising from the decisions of the Council as scheme employer under the Local Government Pension Regulations 1997.
- 10A To agree requests or recommendations for honoraria (subject to the approval of the Personnel Committee in the case of honoraria of more than 12 months duration in respect of posts above Grade 12).
11. Determine appropriate arrangements for the reimbursement of expenditure incurred by staff in exercise of Council duties, including establishing petty cash accounts where this is the most appropriate arrangement.
12. To operate the assisted car / bicycle purchase scheme.
13. To discharge the functions of the “Responsible Financial Officer” under the Accounts and Audit (England) Regulations 2011, including the requirement under Regulation 8(2) to sign and date the statement of accounts, and certify that it presents a true and fair view of the financial position of the Council at the end of the year to which it relates and of the Council’s income and expenditure for that year.
- 14 To discharge the functions of the Council under the Accounts and Audit (England) Regulations 2011 [with the exception of Regulation 4(3), 6(4) and 8(3)].

### **Executive Functions**

#### Financial

- 15 To raise loans and make investments (temporary investment of surplus monies and longer term investment of monies held for specific purposes) as and when required at appropriate rates.
14. To complete and sign leasing agreements for items included within the approved capital or revenue budgets.
15. To assess and administer the Council Tax support scheme and Housing and Education benefits.
16. To determine requests for the award of discretionary housing benefit in exceptional circumstances.
17. To grant discretionary rate relief under Section 47 of the Local Government Finance Act 1988.
18. To reduce or remit liability for rates under Section 49 of the Local Government Finance Act 1988.
19. To reduce the liability of a person for council tax under Section 13A of the Local Government Finance Act 1992.
20. To institute and conduct recovery proceedings (including winding up of companies) in relation to council tax, poll tax and national non - domestic rates.

## SCHEME OF DELEGATION TO OFFICERS

21. To nominate persons to appear in Courts of Law in connection with any proceedings for distress or other recovery action relating to the National Non-Domestic Rate and Council Tax.
22. To operate the Home Loans scheme including mortgage advances, transfer of mortgages, sales of houses in possession and guarantees to building societies.
23. To provide financial services, either on an agency basis or where required by statute for other authorities or bodies.
24. To determine and declare local average rates in accordance with legislation and the interest rate for loans to housing associations.
25. To organise (in consultation with the Leader, Executive Member for Finance and Human Resources and the Chief Executive) the letting of capital contracts through MANSAT Developments Ltd; subject to: -
  - schemes let to MANSAT already having approval in accordance with Financial Standing Regulation 4.7; and
  - the approval of the MANSAT Board of Directors to undertake the projects concerned.
26. To sign certificates under the Local Government (Contracts) Act 1997.
27. To authorise persons to act for the Council at Company and creditors meetings.
28. In accordance with Section 38 of the Local Government Finance Act 1992, to publish within 21 days in the local newspaper notice of the amount of Council tax set by the authority.
29. To appoint, and determine the rate of remuneration, of any accountant employed by the Council concerning gaming, lotteries and amusements after consultation with a registered pool betting promoter or the occupier of a licensed betting track.
30. To be the officer nominated, or to nominate in writing another officer, as the person to receive disclosures of suspicious transactions for the purposes of the Proceeds of Crime Act 2002 and any regulations made thereunder.
31. To determine an amount (not exceeding the sterling equivalent of 15,000 euros) being the maximum sum which the Council will receive in cash without the express written consent of the City Treasurer.

### Estate Management

32. To deal with all matters relating to the management of the Council's interests in land and property without prejudice to Chief Officers' general delegation in relation to the management of operational land and property.

## SCHEME OF DELEGATION TO OFFICERS

33. To determine appropriate arrangements in relation to the Council's duty to manage asbestos in non-domestic premises in accordance with Regulation 4 of The Control of Asbestos Regulations 2006.

### Acquisitions

34. To acquire by agreement or under a compulsory purchase order, land and property (including freehold chief rents) SUBJECT always to the purchase price, or the purchase price when added to other transactions in respect of the same project, being within the estimate of costs included in the capital programme.
35. To agree to the acquisition and renewal of leases of land and property at a rack rent where no credit cover is required for the lease under the capital finance legislation and where provision for the rent is available in the revenue budget.
36. The acquisition of properties which the Council is under a legal obligation to acquire under Town and Country Planning legislation.
37. To accept the surrender of a leasehold interest in land and property where such surrender will lead to a further letting or disposal of the land or property.
38. To acquire land in the interests of economic development, by way of exchanging interests where the land acquired is equal to or less in value than that exchanged (premium also required where less) and the land acquired is no more onerous in terms of title and physical condition than that exchanged.

### Appropriations

41. To discharge the functions of the Council in relation to the appropriation of land, in consultation with the relevant Chief Officers, including (where it is proposed to appropriate open space) to instruct the City Solicitor to advertise in accordance with Section 122 of the Local Government Act 1972, and / or Section 232 of the Town and Country Planning Act 1990.

### VAT

42. Where appropriate, to elect for VAT status on particular land and property.

*The CITY TREASURER is designated as the Council's CHIEF FINANCE OFFICER for the purposes of Section 151 of the Local Government Act 1972. The functions of the chief finance officer are listed in Article 12.4 in Part 2 of the Constitution and include:*

1. *Responsibility for the administration of financial affairs under Section 151 Local Government Act 1972*
2. *Exercise of the duties of the Chief Finance Officer under Section 114, 114A, 115 & 116 of the Local Government Finance Act 1988 and Section 25 of the Local Government Act 2003, namely ensuring lawfulness and financial prudence of decision-making.*
3. *Appoint a Deputy*

## SCHEME OF DELEGATION TO OFFICERS

*In the absence of the City Treasurer, the general and non-executive delegations numbered 1 to 14 above may be exercised by the Assistant Chief Executive (Finance and Performance).*

*In the absence of the City Treasurer, the executive delegations numbered 15 to 33 and 42 above may be exercised by the Assistant Chief Executive (Finance and Performance) delegations 34 and 36 to 41 by the Head of Corporate Property and 35 by the Capital Programme Director.*



## **DEPUTY CHIEF EXECUTIVE (PERFORMANCE)**

The holder of the post of Deputy Chief Executive for Performance shall be responsible for the management of the Performance Division of the Chief Executive's Department and without prejudice to the foregoing, shall have the powers set out below subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations and any legal requirements.

### **Executive Functions**

1. Pay compensation in lieu of wages to persons excluded from work on public health grounds.

### **Non-Executive Functions**

2. Administer the car user and bicycle allowance scheme and to vary on an individual basis the bicycle allowance scheme to ensure that disabled people are able to participate.
3. Implement and adopt nationally negotiated decisions on conditions of service and pay awards.
4. To consider grievances which cannot appropriately be resolved at departmental level.
5. To approve the filling of vacant posts within approved establishments (except for Chief Officer and Deputy Chief Officer posts).

## **DEPUTY CHIEF EXECUTIVE (NEIGHBOURHOODS)**

The holder of the post of Deputy Chief Executive (Neighbourhoods) shall be responsible for the management of the Neighbourhood Services Directorate and without prejudice to the foregoing, shall have the powers set out below subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations and any legal requirements.

### **General Functions**

These functions can be either Executive or Non-Executive depending on the circumstances.

1. Without prejudice to the specific delegations of the Assistant Chief Executive (Neighbourhood Strategy and Delivery), the Director of Commercial Services, the Head of Community and Cultural Services and the Head of Business Units, to exercise a strategic overview of the Council's functions and services relating to private sector housing, environmental health, environmental services, waste, environmental protection, street management and enforcement, licensing, operational services, commercial and trading services, highways, environmental strategy and community and cultural services, including Art Galleries, Museums, Libraries, Theatres, Sport and Leisure.
2. To support and assist the Chief Executive in his responsibilities in relation to civil contingencies, emergencies and disasters, and to take day to day responsibility for such matters.
3. To discharge the Council's functions as a "responsible authority" as defined by Section 13(4)(za) of the Licensing Act 2003
4. To take any urgent action in connection with the functions delegated to the Deputy Chief Executive (Neighbourhoods) after consultation with the appropriate Chair or Executive Member, subject to any such action taken under this power being reported to the next ordinary meeting of the Executive or appropriate committee.

### **Art Galleries and Museums**

5. To discharge the functions of the Council in relation to Art Galleries and Museums and to oversee the management of the City Galleries Service.

Without prejudice to the generality of 5 above:

6. To approve the purchase of works of art using monies from the Art Fund up to a maximum of £25,000 in consultation with the Executive Member for Culture and Leisure.
7. To determine grants, contributions, subscriptions or loans in appropriate cases to bodies or organisations for the provision of artistic activities in the City.
8. To approve the acceptance of gifts, donations, deposits or offers of grant.

## SCHEME OF DELEGATION TO OFFICERS

9. To make arrangements in relation to exhibitions including the borrowing of works of art from other collections and temporary loan of works of art from Manchester City Galleries collections.
10. To maintain war memorials and public statues.

### **Non-Executive Functions**

11. To exercise the functions of the Council in relation to Manchester Art Gallery under Section 149 of the Greater Manchester Act 1981 (“the Local Act”) (with the exception of Section 149(3) of the Local Act which in the case of the proposed sale or exchange of any works or objects of art worth more than £25,000 shall be approved by the Art Galleries Committee).
12. To consider and determine, in consultation with the Executive Member for Neighbourhood Services, objections and representations in respect of the proposed granting of licences under Section 115E of the Highways Act 1980 (provision of amenities on highways).
13. To discharge the functions of the Council in relation to the suspension of licences under section 55A (premises licence) and section 92A (club premises licence) of the Licensing Act 2003.

### **Executive Functions**

#### **Flood and Water Management**

14. To discharge the functions of the Council as a “lead local flood authority” under the Flood and Water Management Act 2010 (“the Flood Act”).
15. Without prejudice to the generality of paragraph 14 above, to discharge the Council’s functions in relation to:-
  - (a) the “local flood risk management strategy” under section 9 of the Flood Act;
  - (b) “investigations” under section 19 of the Flood Act.
  - (c) establishing and maintaining a “register” of flood risk structures and features under section 21 of the Flood Act.
16. To determine plans relating to schemes for culverting watercourses.
17. To perform the enforcement functions of the Council regarding reservoirs.
18. To exercise the Council’s remedial and enforcement functions in relation to watercourses, non-main rivers classified as streams, brooks and ditches etc.

### **Miscellaneous**

19. To consider and determine, in consultation with the Executive Member for Neighbourhood Services, objections and representations in respect of proposed traffic regulation orders, speed limits, on-street parking places orders and traffic calming measures; and disposal or appropriation of open spaces.

## SCHEME OF DELEGATION TO OFFICERS

20. To consider and determine, in consultation with the Executive Member for Neighbourhood Services, objections and representations in respect of proposed gating orders under Section 129A-G of the Highways Act 1980.
21. To consider and determine, in consultation with the Executive Member for the Environment objections and representations of proposed Orders concerning pay and display car parks.
22. To prepare where necessary statutory statements for works carried out by the DLOs /DSOs within the department including street cleansing, grounds maintenance, fleet management, vehicle maintenance, street lighting, highways, building cleansing.
23. In consultation with the Executive Member for the Environment, as appropriate to offer the services of the DLO /DSOs within the department to undertake works for external agencies.
24. Subject to consultation with the City Solicitor to enter into Agreements in relation to any of the above matters.

## **STRATEGIC DIRECTOR OF CHILDREN'S SERVICES AND COMMISSIONING**

The holder of the post of Strategic Director of Children's Services and Commissioning is the statutory officer for the purposes of Section 18 of the Children Act 2004 and shall be responsible for the management of the Directorate for Children's Services and Commissioning and without prejudice to the foregoing, shall have the powers set out below subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations and any legal requirements.

### **Non-Executive Functions**

1. Power to license the employment of children (Part II of the Children and Young Persons Act 1933 byelaws made under that Part, and Part II of the Children and Young Persons Act 1963).

### **Executive Functions**

2. To discharge the education functions conferred on or exercisable by the Council as set out in Schedule 36A of the Education Act 1996 (as amended).
3. To discharge the functions conferred on or exercisable by the authority, which are Social Services functions (as set out in Schedule 1 of the Local Authority Social Services Act 1970), so far as those functions relate to children.

Without prejudice to the generality of the above:

4. To discharge the functions conferred on the authority under Sections 23C to 24D of the Children Act 1989 (so far as not falling within paragraph 3 above).
5. To discharge the functions conferred on the authority under Sections 10 to 12, 12C 12D, and 17A of the Children Act 2004.
  - 5.1 To make arrangements to promote co-operation between the authority and relevant partners to improve the well-being of children in the area.
  - 5.2 To make arrangements to safeguard and promote the welfare of children.
6. To discharge any function exercisable by the authority under Section 75 of the National Health Service Act 2006 on behalf of an NHS body, so far as those functions relate to children.
7. To discharge the functions conferred on the authority under Part 1 of the Childcare Act 2006.
8. To discharge the functions of the authority in relation to Early Years and Play and the Youth Service.
9. To exercise the functions of the authority under the Safeguarding Vulnerable Groups Act 2006, so far as those functions relate to children.

## SCHEME OF DELEGATION TO OFFICERS

10. To discharge the functions of the authority in relation to youth justice and youth offending services.
11. To discharge the functions of the authority in relation to parenting contracts and parenting orders in connection with anti social behaviour under Part 3 of the Anti Social Behaviour Act 2003, as amended.
12. To discharge the functions of the authority under the following enactments:
  - Education Act 1973
  - Education Act 1980
  - Education (Fees and Awards) Act 1983
  - Further Education Act 1985 (except sections 4 and 5)
  - Education Act 1986
  - Education Reform Act 1988
  - Further and Higher Education Act 1992
  - Education Act 1994
  - Education Act 1996
  - Education Act 1997
  - Education (Schools) Act 1997
  - School Standards and Framework Act 1998
  - Teaching and Higher Education Act 1998
  - Higher Education Act 2004
  - Children, Schools and Families Act 2010

### Financial

13. To grant or refuse financial assistance to students and pupils in accordance with statutory regulations.
14. To increase school Imprest Accounts as appropriate, in consultation with the City Treasurer.

### Human Resources

15. To arrange the secondment of Teachers and other Education Service staff to promote the provision of an efficient and effective Education Service.
16. To appoint Representatives to serve on Joint Committees of Recommendation in accordance with Articles of Government in consultation with the Executive Member for Children's Services.
17. To determine recommendations of Governing Bodies/the Council's Joint Committees with education functions for the appointment of teaching staff.

### Miscellaneous – Education

18. To exercise the powers of intervention in schools causing concern in accordance with the School Standards and Framework Act 1998.

## SCHEME OF DELEGATION TO OFFICERS

19. To exercise the Council's reserve power to prevent a breakdown of discipline in accordance with the School Standards and Framework Act 1998.
20. To authorise the closure of school premises for the purposes of Local and National Elections.
21. To exercise the functions of the Council pursuant to Sections 1, 16 and 115 of the Crime and Disorder Act 1998 (Anti-Social Behaviour Orders, removal of truants and Disclosure of Information to a relevant authority).
22. To appoint and remove the Council's representatives on Governing Bodies.
23. To enforce all relevant legislation relating to the attendance at school of children of compulsory school age, including the investigation of offences under Section 444 of the Education Act 1996, and the issue of fixed penalty notices under Section 444A of the Education Act 1996.
24. To exercise powers in respect of activities on playgrounds, playing fields and sports complexes under Section 163 of the Greater Manchester Act 1981.

### Miscellaneous – Children's Social Care

25. To pay the cost of any application for registration as a British Citizen on behalf of a child in the care of the Council.
26. To pay legal fees for adopters where legal representation is necessary (and where there is no possibility of public funding being allowed) and in appropriate circumstances the payment of medical fees in connection with adoption.
27. To pay reasonable legal expenses incurred in relation to applications for Special Guardianship and Residence Orders in accordance with relevant legislation, guidance and policy and where there is no possibility of public funding being allowed.
28. To provide financial support to holders of Special Guardianship and Residence Orders in accordance with relevant legislation, guidance and policy.
29. To act as the next friend of any child in care with regards to insurance claims.
30. To consent to abortion in respect of child in care and approve the separation of siblings in care.
31. To permit the placement of a child in secure accommodation for a period not exceeding 72 hours.
32. To effect a change of name by deed poll of a child in care.
33. To impose requirements to prohibit the accommodating of foster children at specified addresses.

## SCHEME OF DELEGATION TO OFFICERS

34. To authorise the placement and cost thereof of older children under the inter agency placement scheme established by the Association of British Adoption and Fostering Agencies on the Adoption Resource Exchange.
35. To decide upon recommendations of Adoption and Fostering Panels.
36. To consent to the making of an application for a Special Guardianship and Residence Order where required.
37. To take any action urgently required to protect the interests of any child in need under the Children Act 1989.
38. To act as Authorised Officer under Children's and Adoption Legislation.



## **STRATEGIC DIRECTOR FOR ADULTS, HEALTH AND WELLBEING**

The holder of the post of Strategic Director for Families, Health and Wellbeing is the statutory officer for the purposes of Section 6 of the Local Authority Social Services Act 1970 as amended (other than those functions for which the Director of Children's Services is responsible under Section 18 of the Children Act 2004) and shall be responsible for the management of the Directorate for Families, Health and Wellbeing and without prejudice to the foregoing, shall have the powers set out below subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations and any legal requirements.

### **Executive Functions**

#### **Social Services**

1. To discharge the Social Services functions of the Authority as listed in Schedule 1 of the Local Authority Social Services Act 1970 as amended from time to time other than those functions for which the Director of Children's Services is responsible under Section 18 of the Children Act 2004.
2. Without prejudice to the generality of the aforesaid, such functions include but are not limited to powers of the Social Services authority under the following legislation: -
  - National Assistance Act 1948
  - Disabled Persons (Employment) Act 1958
  - Mental Health Act 1959
  - Health Services & Public Health Act 1968
  - Chronically Sick and Disabled Persons Act 1970
  - Supplementary Benefits Act 1976
  - National Health Service Act 1977
  
  - Mental Health Act 1983
  - Health & Social Services & Social Security Adjudications Act 1983
  - Public Health (Control of Disease) Act 1984
  - Housing Act 1996
  - Disabled Persons (Services, Consultation & Representation) Act 1986
  - National Health Service & Community Care Act 1990
  - Carers (Recognition & Services) Act 1995
  - Community Care (Direct Payments) Act 1996
  - Carers and Disabled Children Act 2000
  - Local Government Act 2000
  - Health and Social Care Act 2001
  - Nationality, Immigration and Asylum Act 2002
  - Community Care (Delayed Discharges etc) Act 2003
  - Health & Social Care (Community Health & Standards) Act 2003
  - Carers (Equal Opportunities) Act 2004
  - Mental Capacity Act 2005
  - Health and Social Care Act 2012

## SCHEME OF DELEGATION TO OFFICERS

3. Without prejudice to the generality of 1 and 2 above to be accountable for discharging the functions of the Council in relation to Safeguarding Adults and Domestic Violence, and to be accountable for discharging the functions of the Council in relation to the Manchester Multi-Agency Risk Assessment Conference (MARAC) and the Greater Manchester Multi Agency Public Protection Arrangements (MAPPA).

### Housing

4. Without prejudice to the generality of 1 and 2 and 3 above to exercise the functions of a Local Housing Authority pursuant to:-
  - Part VII of the Housing Act 1996 (Homelessness)
  - Part 1 Chapter 1 of the Housing Grants and Construction and Regeneration Act 1996 (Disabled facilities grants) and any General Consents given by the Secretary of State.
5. To authorise the City Solicitor to issue notices to quit and commence proceedings for possession of any tenancy or licence granted by the Council pursuant to any function under Part VII of the Housing Act 1996.
6. To manage funds and commission services to support people in residential accommodation.

### Financial

7. To set fees for rates of maintenance at homes operated by voluntary and private organisations in consultation with the City Treasurer.
8. To act on behalf of the City Council in relation to the discharge of receivership functions.
9. To agree payments for adaptations to carers' property to facilitate placements.

### Miscellaneous

10. To authorise the exercise of all powers of entry vested in the Council as Social Services Authority or Local Housing Authority.
11. To authorise the approval of Approved Mental Health Professionals (AMHP) under the Mental Health Act 1983 (as amended by the Mental Health Act 2007).
12. To administer grants made by the Manchester Immigration Needs Trust.
13. To exercise the functions of the Council pursuant to the Forced Marriage (Civil Protection) Act 2007.
14. To exercise the functions of the Council under the Safeguarding Vulnerable Groups Act, except where such functions relate to children.

## SCHEME OF DELEGATION TO OFFICERS

15. Without prejudice to the general delegation of the Director of Children's Services, to exercise the functions of the Council under Section 15B of the Education Act 1996.
16. To discharge any functions exercisable by the authority under Section 75 of the National Health Service Act 2006 on behalf of an NHS body, so far as those functions relate to adults.
17. To exercise the functions of the Council in respect of domestic homicide reviews established and conducted under Section 9 of the Domestic Violence, Crime and Victims Act 2004 in partnership with the Assistant Chief Executive (Neighbourhoods) and the Greater Manchester Community Safety Partnership (CSP).

### Public Health

18. Without prejudice to the specific delegations to the Director of Public Health to maintain a strategic overview of the discharge of the Council's functions in relation to public health under the Health and Social Care Act 2012 and other legislation.
19. To authorise allowances to persons excluded from work because of notifiable disease in consultation with the Deputy Chief Executive (Performance).
20. To discharge the Supervisory Body (SB) function of the Council for the Deprivation of Liberty safeguards (DOLS) in hospitals, pursuant to Schedule A1 of the Medical Capacity Act 2005 and the Deprivation of Liberty Code of Practice.

# **CHAPTER 3A**

## **ASSISTANT CHIEF EXECUTIVE (REGENERATION)**

The holder of the post of Assistant Chief Executive for Regeneration shall be responsible for the management of the Regeneration Division of the Chief Executive's Department and without prejudice to the foregoing, shall have power subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations and any legal requirements, to:

### **General Functions**

These functions can be either Executive or Non-Executive depending on the circumstances.

1. Without prejudice to the specific delegations of the Director of Housing and Head of Planning, maintain a strategic overview of matters within the remit of the Regeneration Directorate.
2. At the request of the Chief Executive, to exercise any power delegated to the Chief Executive relating to economic development and regeneration, the Association of Greater Manchester Authorities or the Manchester City Region.

**ASSISTANT CHIEF EXECUTIVE**  
**(NEIGHBOURHOOD STRATEGY AND DELIVERY)**

The holder of the post of Assistant Chief Executive (Neighbourhood Strategy and Delivery) shall be responsible for the management of the Neighbourhood Strategy and Delivery Division within Neighbourhood Services Directorate including highways, street scene services (including grounds maintenance), environmental health and protection, environmental strategy, consumer protection, private sector housing and licensing and without prejudice to the foregoing, shall have power subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations and any legal requirements, to:

**GENERAL FUNCTIONS**

These functions can either be Executive or Non-Executive depending on the circumstances.

1. Without prejudice to the specific delegations of the Deputy Chief Executive (Neighbourhoods) and the Director of Commercial Services, to exercise the functions of the Council relating to highways and to administer and enforce all relevant legislation relating to the Council's functions as local highway authority, including the authorisation of legal proceedings and the authorisation of officers to enter land and premises and exercise any powers in pursuance of the Council's functions as local highway authority.
2. To exercise the functions of the Council relation to environmental health, waste and environmental protection, pollution control, contaminated land, private sector housing, street scene services (including grounds maintenance), health and safety, food safety, animal welfare, consumer protection, weights and measures and licensing.
3. To administer and enforce all relevant legislation relating to the Councils functions listed at item 2 above, including the authorisation of legal proceedings and the authorisation of officers to enter on to land and premises to carry out their duties.
4. To take any urgent action in connection with the functions delegated to the Assistant Chief Executive (Neighbourhood Strategy and Delivery) after consultation with the appropriate Chair or Executive Member, subject to any such action taken under this power being reported to the next ordinary meeting of the Executive or appropriate committee.

**NON-EXECUTIVE FUNCTIONS**

**Highways**

5. Power to create footpath, bridleway or restricted byway by agreement (subject to consultation with the Chair of the Planning and Highways Committee) under Section 25 of the Highways Act 1980 ("the 1980 Act").

## SCHEME OF DELEGATION TO OFFICERS

6. Power to create footpaths, bridleways and restricted byways (subject to consultation with the Chair of the Planning and Highways Committee) under Section 26 of the 1980 Act.
7. Duty to keep register of information with respect to maps, statements and declarations under Section 31A of the 1980 Act.
8. Power to grant permission for the provision, etc of services, amenities, recreation & refreshment facilities on highway, and related powers under Sections 115E, 115F and 115K of the 1980 Act (but subject to the referral of objections / representations to any Section 115E proposals to the Deputy Chief Executive (Neighbourhoods)).
9. Duty under Section 115G of the 1980 Act to publish notice in respect of proposals to grant permission under Section E of the 1980 Act.
10. Power to stop up footpaths, bridleways and restricted byways (subject to consultation with the Chair of the Planning and Highways Committee) under Section 118 of the 1980 Act.
11. Power to make a rail crossing extinguishment order (subject to consultation with the Chair of the Planning and Highways Committee) under Section 118A of the 1980 Act.
12. Power to make a special extinguishment order (subject to consultation with the Chair of the Planning and Highways Committee) under Section 118B of the 1980 Act.
13. Power to divert footpaths, bridleways and restricted byways (subject to consultation with the Chair of the Planning and Highways Committee) under Section 119 of the 1980 Act.
14. Power to make a rail crossing diversion order (subject to consultation with the Chair of the Planning and Highways Committee) under Section 119A of the 1980 Act.
15. Power to make a special diversion order (subject to consultation with the Chair of the Planning and Highways Committee) under Section 119B of the 1980 Act.
16. Power to require applicant for order to enter into agreement under Section 119C(3) of the 1980 Act.
17. Power to make SSSI diversion order (subject to consultation with the Chair of the Planning and Highways Committee) under Section 119D of the 1980 Act.
18. Duty to assert and protect the rights of the public to use and enjoyment of highways under Section 130 of the 1980 Act.
19. Duty to serve notice of proposed action in relation to obstruction under Section 130A of the 1980 Act.
20. Power to apply for variation of order under Section 130B of the 1980 Act.

## SCHEME OF DELEGATION TO OFFICERS

21. Power to authorise temporary disturbance of surface of footpath, bridleway or restricted byway under Section 135 of the 1980 Act.
22. Power to permit deposit of builder's skip on highway under Section 139 of the 1980 Act.
23. Power to license planting, retention and maintenance of trees etc. in part of highway under Section 142 of the 1980 Act and provision of trees and shrubs under Section 24 of the Greater Manchester Act 1981.
24. Power to authorise erection of stiles etc. on footpaths or bridleways under Section 147 of the 1980 Act.
25. Powers relating to the removal of things so deposited on highways as to be a nuisance under Section 149 of the 1980 Act.
26. Power to license works in relation to buildings etc. which obstruct the highway under Section 169 of the 1980 Act.
27. Power to consent to temporary deposits or excavations in streets under Section 171 of the 1980 Act.
28. Power to dispense with obligation to erect hoarding or fence under Section 172 of the 1980 Act.
29. Power to restrict the placing of rails, beams etc. over highways under Section 178 of the 1980 Act.
30. Power to consent to construction of cellars etc. under street under Section 179 of the 1980 Act.
31. Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators under Section 180 of the 1980 Act.
33. Power to extinguish certain public rights of way (subject to consultation with the Chair of the Planning and Highways Committee) under Section 32 of the Acquisition of Land Act 1981.
34. Duty to keep definitive map and statement under review under Section 53 of the Wildlife and Countryside Act 1981.
35. Power to include modifications in other orders under Section 53A of the Wildlife and Countryside Act 1981.
36. Duty under Section 53B of the Wildlife and Countryside Act 1981 to keep a register of prescribed information with respect to applications under Section 53(5) of the Wildlife and Countryside Act 1981.
37. Power to prepare map and statement by way of consolidation of definitive map and statement under Section 57A of the Wildlife and Countryside Act 1981.

## SCHEME OF DELEGATION TO OFFICERS

38. Power to designate footpath as cycle track under Section 3 of the Cycle Tracks Act 1984.
39. Power to extinguish public right of way over land acquired for clearance under Section 294 of the Housing Act 1981.
40. Power to consider and (subject to consultation with the Chair of the Planning and Highways Committee) to make applications for an Order to authorise stopping up or diversion of highway under Section 247 of the Town and Country Planning Act 1990.
41. Power to authorise stopping up or diversion of footpath, bridleway or restricted byway (subject to consultation with the Chair of the Planning and Highways Committee) under Section 257 of the Town and Country Planning Act 1990.
42. Power to extinguish public rights of way over land held for planning purposes (subject to consultation with the Chair of the Planning and Highways Committee) under Section 258 of the Town and Country Planning Act 1990.
43. Power to enter into agreements with respect to means of access under Section 35 of the Countryside and Rights of Way Act 2000.
44. Power to provide access in absence of agreement under Section 37 of the Countryside and Rights of Way Act 2000.
45. Power to grant a street works licence under Section 50 of the New Roads and Street Works Act 1991.

### **Environmental Protection**

46. The inspection of the Authority's area to detect any statutory nuisance under Section 79 of the Environmental Protection Act 1990.
47. The investigation of any complaint as to the existence of a statutory nuisance under Section 79 of the Environmental Protection Act 1990.
48. The service of an abatement notice in respect of a statutory notice under Section 80 of the Environmental Protection Act 1990.
49. Duty to enforce Chapter 1 of the Health Act 2006 (Smoke-Free Premises, Places and Vehicles) and regulations made under it pursuant to Section 10(3) of the Health Act 2006.
50. Power to authorise officers to act in matters arising under Chapter 1 of the Health Act 2006 (Smoke-Free Premises, Places and Vehicles) and regulations made under it pursuant to Section 10(5) of the Health Act 2006.
51. To exercise the Council's functions relating to fixed penalty notices pursuant to Paragraphs 13, 15 and 16 of Schedule 1 to the Health Act 2006 and the Smoke-Free (Vehicle Operators and Penalty Notices) Regulations 2007 (S.I. 2007/760).



## SCHEME OF DELEGATION TO OFFICERS

52. Power to transfer enforcement functions to another enforcement authority pursuant to the Smoke-free (Premises and Enforcement) Regulations 2006 (S.I. 2006/3368).
53. To exercise the Council's powers to give notice to reduce the emission of dust etc. from building operations under Section 34 of the Greater Manchester Act 1981 ("the Local Act").
54. To exercise the Council's powers to order reduction of gas, vapour or fumes coming from chimneys under Section 36 of the Local Act.
55. To exercise the Council's powers to require owner to provide adequate means of lighting in habitable rooms under Section 48 of the Local Act.
56. To exercise the Council's powers in relation to trees impeding natural light to houses, shops and offices under Section 49 of the Local Act.
57. To exercise the Council's powers in relation to the prohibition of interference with bird traps authorised by the Council under Section 53 of the Local Act.

### **Health and Safety at work Functions**

58. Functions under any of the "relevant statutory provisions" within the meaning of Part 1 (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.

### **Licensing and Registration Functions**

#### **Under the Licensing Act 2003**

59. To discharge the following Council functions under the Licensing Act 2003:
  - (a) To grant an application for personal licence where no police objection is made.
  - (b) To grant an application for personal licence with unspent convictions where no police objection is made.
  - (c) To grant an application for premises licence / club premises certificate where no relevant representation made.
  - (d) To grant an application for provisional statement where no relevant representation made.
  - (e) To grant an application to vary premises licence / club premises certificate where no relevant representation made.
  - (f) To grant or refuse an application for a minor variation to premises licence / club premises certificate (in consultation with the Chair of the Licensing Committee)

## SCHEME OF DELEGATION TO OFFICERS

- (g) To grant an application to vary designated premises supervisor only where no police objection made and in all other cases.
  - (h) To approve any request to be removed as designated premises supervisor.
  - (i) To grant an application for transfer of premises licence only where no police objection made and in all other cases.
  - (j) To grant applications for interim authority only where no police objection made and in all other cases.
  - (k) To make a decision as to whether a complaint / representation is irrelevant, frivolous, vexatious etc.
60. To exercise the functions of the Council relating to the enforcement of compliance with the terms of licences, permits, registrations, certificates, consents and authorisations granted by the Council under the Licensing Act 2003 including the authorisation of legal proceedings and the authorisation of officers to enter on to land and premises to carry out their duties.

### **Under the Gambling Act 2005**

61. To discharge the following Council functions under the Gambling Act 2005:
- (a) To approve an application for premises licence where either no representations have been received or where any representations have been withdrawn.
  - (b) To approve an application for a variation to a licence where no representations are received or any representations have been withdrawn.
  - (c) To approve an application for a transfer of a licence where no representations are received from the Commission.
  - (d) To approve an application for a provisional statement where either no representations are received or any representations have been withdrawn.
  - (e) To approve an application for club gaming / club machine permits either where no objections are made or any objections have been withdrawn.
  - (f) To approve applications for permits.
  - (g) To cancel licensed premises gaming machine permits.
  - (h) To consider Temporary Use Notice.
62. To discharge the Council's functions in relation to fee setting under the Gambling Act 2005 and the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 in consultation with the Chair of the Licensing Committee and the

Executive Member for the Environment and to produce a monitoring report for the information of the Licensing Committee.

63. To exercise the functions of the Council relating to the enforcement of compliance with the terms of licences, permits, registrations, certificates, consents and authorisations granted by the Council under the Gambling Act 2005 including the authorisation of legal proceedings and the authorisation of officers to enter on to land and premises to carry out their duties.

### **General Licensing and Registration Functions**

64. The registration of Hairdressers and Barbers under Section 30 of the Greater Manchester Act 1981 (“the Local Act”).
65. The registration of Acupuncturists, Tattooists, Ear Piercers, Electrolysis etc under Section 32 of the Local Act.
66. The registration of dealings in Second Hand Goods under Section 54 of the Local Act.
67. The discharge of the functions under Section 60 of the Local Act relating to Touting, Hawking, Photographing etc.
68. The registration of Entertainment Clubs under Sections 74 – 79 and 81 of the Local Act and the power to enter upon, inspect and examine premises used as Entertainment Clubs under Section 80 of the Local Act.
69. Power to require information as to goods sold in any market carried on by the Council under Section 118 of the Local Act.
70. The registration of Night Cafes in Manchester under Sections 136 – 141 and 143 – 4 of the Local Act and the power to enter upon, inspect and examine premises used as Night Cafes under Section 142 of the Local Act.
71. Regulation of Signs on Vehicles (regarding signs that may only be used by hackney cabs and private hire vehicles) under Section 167 of the Local Act.
72. Power to issue licenses authorising the use of land as a caravan site (“site licences”) under Section 3(3) of the Caravan Sites and Control of Development Act 1960.
73. Power to license the use of moveable dwellings and camping sites under Section 269(1) of the Public Health Act 1936.
74. Power to license hackney carriages and private hire vehicles:-
  - (a) as to hackney carriages, under the Town Police Clauses Act 1847, as extended by Section 171 of the Public Health Act 1875, and Section 15 of the Transport Act 1985; and Sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976;

## SCHEME OF DELEGATION TO OFFICERS

(b) as to private hire vehicles, under Sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.

75. Power to license drivers of hackney carriages and private hire vehicles under Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.

76. Power to license operators of hackney carriages and private hire vehicles under Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.

### **Under the Betting, Gaming and Lotteries Act 1963**

77. To discharge the Council's enforcement functions under the Betting, Gaming and Lotteries Act 1963 (as saved for certain purposes by the Gambling Act 2005 (Commencement No 6 and Transitional Provisions) Order 2006 "the Gambling Act Order"):

(a) Power to register pool promoters under Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (as saved for certain purposes by article 3(3)(c) of the Gambling Act Order).

(b) Power to grant track betting licences under Schedule 3 to the Betting, Gaming and Lotteries Act 1963 (as saved for certain purposes by article 3(3)(d) and 4 of the Gambling Act Order).

(c) Power to license inter-track betting schemes under Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963 (as saved for certain purposes by article 3(3)(e) of the Gambling Act Order).

(d) Power to grant permits in respect of premises with amusement machines under Schedule 9 to the Gaming Act 1968 (as saved for certain purposes by article 4(2)(l) and (m) of the Gambling Act Order).

(e) Power to register societies wishing to promote lotteries under Schedule 1 to the Lotteries and Amusements Act 1976 (as saved for certain purposes by article 5(2)(a) and (3) of the Gambling Act Order).

(f) Power to grant permits in respect of premises where amusements with prizes are provided under Schedule 3 to the Lotteries and Amusements Act 1976 (as saved for certain purposes by article 5(2)(d) and (5) of the Gambling Act Order).

78. Power to institute proceedings for failing to provide for safety of children at entertainments under Section 12 of the Children and Young Persons Act 1933.

79. Power to renew licences of sex shops, sex cinemas and sexual entertainment venues under Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 .

80. Power to license performances of hypnotism under the Hypnotism Act 1952.

## SCHEME OF DELEGATION TO OFFICERS

81. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis under Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.
82. Power to license pleasure boats and pleasure vessels under Section 94 of the Public Health Acts Amendment Act 1907.
83. Power to license street trading under Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982.
84. Duty to keep lists of persons entitled to sell non-medicinal poisons under Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972.
85. Power to register and license premises for the preparation of food under Section 19 of the Food Safety Act 1990.
86. Power to license for scrap yards under Section 1 of the Scrap Metal Dealers Act 1964.
87. Power to license premises for the breeding of dogs under Section 1 of the Breeding of Dogs Act 1973 and Section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999.
88. Power to license of pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business under Section 1 of the Pet Animals Act 1951; Section 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970; Section 1 of the Breeding of Dogs Act 1973 and Sections 1 and 8 of the Breeding of Dogs (Welfare) Act 1999.
89. Power to register animal trainers and exhibitors under Section 1 of the Performing Animals (Regulation) Act 1925.
90. Power to license zoos under Section 1 of the Zoo Licensing Act 1981.
91. Power to license dangerous wild animals under Section 1 of the Dangerous Wild Animals Act 1976.
92. Power to license persons to collect for charitable and other causes under Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and Section 2 of the House to House Collections Act 1939.
93. Power to grant consent for the operation of a loudspeaker under Schedule 2 to the Noise and Statutory Nuisance Act 1993.
94. Power to sanction use of parts of buildings for storage of celluloid under Section 1 of the Celluloid and Cinematograph Film Act 1922.
95. Power to register motor salvage operators under Part 1 of the Vehicle (Crime) Act 2001.

**Miscellaneous**

96. Obtaining particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
97. To prepare and serve notices under Section 215(1) of the Town and Country Planning Act 1990.

**EXECUTIVE FUNCTIONS**

**Highways**

98. To approve the making of permanent and experimental traffic regulation orders, speed limits and on-street parking places orders and their implementation including associated engineering measures subject to:
  - (a) consultation with the Executive Member for Neighbourhood Services in all cases.
  - (b) the referral of objections / representations received in relation to proposed orders to the Deputy Chief Executive (Neighbourhoods).
99. To approve the construction of road humps and other traffic calming measures subject to:
  - (a) consultation with the Executive Member for Neighbourhood Services in all cases.
  - (b) the referral of objections / representations received in response to proposals for road humps to the Deputy Chief Executive (Neighbourhoods).
100. To make arrangements for the establishment, alteration and removal of zebra crossings.
101. To consider and to make applications for Orders under Sections 248, 249, 251, 253 to 256, 258, 259 and 261 of the Town and Country Planning Act 1990 and Section 48 of the Civil Aviation Act 1982 and to make orders under Section 294 of the Housing Act 1985.
102. To undertake schemes to improve road safety and pedestrian and cycling facilities.
103. In consultation with the Executive Member for Neighbourhood Services to approve the construction, alteration and removal of highway improvement schemes, including the making of agreements for the execution of works under Section 278 of the 1980 Act.
104. To accept the dedication of land as highways (including for highway widening) and to adopt highways and to approve the entering into of agreements for these purposes.
105. To approve the entering into of Walkway Agreements.

## SCHEME OF DELEGATION TO OFFICERS

106. To exercise the Council's functions under Part 2 of the Traffic Management Act 2004.
107. To prepare and publish the Rights of Way Improvement Plan.
108. To approve the making of applications to the magistrates court under Section 116 of the Highways Act 1980 for orders stopping up and/or diverting highways, subject to consultation with the Executive Member for Neighbourhood Services, and to take such steps considered appropriate to secure the making of such orders for which no further consultation with the Executive Member is required.
109. To make arrangements for the provision of and authorise the provision of road and directional signing (except temporary direction signing).
110. To make arrangements for the provision of school crossing patrols in consultation with the Executive Member for Children's Services.
111. To respond to consultation regarding the siting and erection of bus stops and bus shelters.
112. To agree bus timing points.
113. To make application to the Traffic Commissioner for the imposition of traffic regulation conditions in respect of local services.
114. To make objections / representations in relation to the proposed grant of or changes to heavy goods vehicle operators' licences.
115. To undertake maintenance and repair of bridges and other structures.
116. To take action in relation to retaining walls near streets.
117. To determine and issue licences for bridges over the highway.
118. To respond to consultation on the highway / traffic implications of planning proposals.
119. To make minor amendments to the details of approved highways or traffic related proposals.
120. To maintain and repair highways within approved budgets (with the exception of highway bridges and other structures).
121. To be responsible for the control of work and the placing of items in, over, under, on or adjacent to highways and streets including the taking of enforcement action.
122. To manage the Council's rights of way network including the exercise of the Council's functions in respect of such matters.
123. To exercise the Council's functions under the New Roads and Street Works Act 1991 (with the exception of Section 50 of that Act).

## SCHEME OF DELEGATION TO OFFICERS

124. To make temporary traffic orders and issue temporary notices under the Road Traffic Regulation Act 1984 and to make Orders under the Town Police Clauses Act 1847 and to carry out associated works.
125. To exercise the Council's functions in relation to the naming and numbering of streets and their renaming and renumbering, including the exercise of the Council's powers in relation to Street Numbers under Section 22 of the Greater Manchester Act 1981.
126. To provide street trees and highway grass verges and their removal and replacement.
127. To determine applications for street performance / displays etc.
128. To determine applications for Homewatch / Business Watch signs.
129. To keep and update the Council's list of adopted streets.
130. To carry out urgent repairs to private streets or to require such urgent repairs to be carried out.
131. To provide or approve the provision of temporary directional signing for events.
132. To carry out improvements to private forecourts where this would promote the environmental well-being of the area when the Council undertakes adjoining highway improvement schemes.
133. To prepare, publish, review and make amendments to the Council's Rights of Way Improvement Plan.
134. To establish and appoint members to the Local Access Forum under Section 94 of the Countryside and Rights of Way Act 2000, in consultation with the Executive Member for Neighbourhood Services.
135. To exercise the Council's power in relation to the recovery of street works charges where the owner is unknown under Section 21 of the Greater Manchester Act 1981 ("the Local Act").
136. To exercise the Council's power in relation to the prohibition of parking of goods vehicles in residential streets under Section 26 of the Local Act.
137. To exercise the Council's power in relation to the control of verges under Section 27 of the Local Act.
138. To exercise the Council's power in relation to the temporary stoppage of footpaths and bridleways under Section 28 of the Local Act.
139. To exercise the Council's power in relation to the prohibition of the riding of pedal cycles in any pedestrian area under Section 164 of the Local Act.



140. Subject to consultation with the City Solicitor to enter into Agreements in relation to any of the above matters.

### **Crime and Disorder Strategy**

141. To implement the Crime and Disorder Strategy and to discharge or arrange for the discharge of the Council's functions in relation to reduction of crime and disorder and antisocial behaviour.

Without prejudice to the generality of item 141 above:

142. To discharge the functions of the Council in relation to Anti-Social Behaviour Orders under Section 1 of the Crime and Disorder Act 1998.
143. To discharge (in consultation with the Director of Children's Services) the functions of the Council in relation to local child curfew schemes under Section 14 of the Crime and Disorder Act 1998.
144. To discharge the functions of the Council in relation to Mediation Services.

### **Environmental Strategy**

145. To promote and improve the environmental well-being of the City pursuant to Section 2 of the Local Government Act 2000.
146. To discharge the functions of the Council under the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2000 No. 2853).

### **Waste and Cleansing**

147. To exercise the functions of the Council under Part II of the Environment Protection 1990.

Without prejudice to the generality of item 147 above;

148. To be responsible for community based clean up campaigns.
149. To be responsible for litter abatement and environmental education.
150. To liaise with the Chief Executive, the Waste Disposal Authority and other local authorities in the preparation and revision by the Waste Disposal Authority of waste disposal plans.
151. To manage the storage, collection and transportation for final disposal of domestic, commercial and industrial refuse, certain classes of hazardous wastes, liquid wastes, bulky items of waste, clinical waste, garden refuse and building materials.
152. To arrange for the provision, hire or sale of refuse receptacles, the provision, hire or sale of receptacles for clinical waste, and the provision of litter bins.
153. To participate in the recycling of waste materials.

## SCHEME OF DELEGATION TO OFFICERS

154. To purchase refuse containers, compactors and skips in accordance with the needs of the service.
155. To serve statutory notices in respect of the removal of abandoned motor vehicles and the collection, removal and disposal of unwanted or abandoned motor vehicles.
156. To serve statutory notices in respect of the removal of waste from land.
157. To discharge the functions of the Council in relation to the control of waste and litter generally and including under Section 2 of the Refuse Disposal (Amenity) Act 1978, Section 33(1)(a) of the Environmental Protection Act 1990 and Section 87 of the Environmental Protection Act 1990.
158. To serve statutory notices in respect of the removal of litter from land.
159. To remove refuse abandoned on land in the open air.

### **Housing**

160. To exercise the functions of the Council in relation to conditions associated with private sector and social residential accommodation and facilities (excluding accommodation owned by the Council), including but not limited to powers derived from the following statutes:
  - a. Public Health Act 1936
  - b. Public Health Act 1961
  - c. Prevention of Damage by Pests Act 1949
  - d. Greater Manchester Act 1981
  - e. Local Government (Miscellaneous Provisions) Act 1976 and 1982
  - f. Building Act 1984
  - g. Environmental Protection Act 1990
  - h. The Water Act 1989
  - i. Health and Safety at Work Act 1974
  - j. Food Safety Act 1990
161. To Exercise the functions of the Council in relation to private sector and social residential accommodation and facilities under the Housing Act 2004.
162. To authorise the City Solicitor to exercise the power of sale arising from a Local Land Charge over land and/or property as a result of the exercise of the functions at 160 and 161 above alone or in conjunction with the exercise of functions of other Chief Officers.
163. To authorise the City Solicitor to make, vary and revoke Gating Orders.

### **Environmental Health**

164. To exercise the Council's functions as food authority under EU Food Hygiene Regulations, the Food Safety Act 1990 and the Food Hygiene (England) Regulations 2006 (S.I. 2006/ No. 14).

## SCHEME OF DELEGATION TO OFFICERS

Without prejudice to the generality of item 164 above;

165. To exercise the Council's functions in relation to the grant of approvals to establishments handling, preparing or producing products of animal origin for which requirements are laid down in Regulation (EC) 853/2004.
166. To requisition information in connection with environmental health functions generally and including under Section 93 of the Control of Pollution Act 1974, Section 19 of the Environmental Protection Act 1990 and Section 108 of the Environment Act 1995.
167. To exercise the Council's functions under The Cattle Identification Regulations 2007 (S.I. 2007/ No. 539).
168. To exercise the Council's functions under the Pigs (Records, Identification and Movement) Order 2011 (S.I. 2011/ No. 2154).
169. To exercise the Council's functions under the Animal By-Products (Enforcement) (England) Regulations 2011 (S.I. 2011 No. 881).
170. To operate disinfection and sharps collection services.
171. To operate a Dog Control Service (including the control of stray dogs).
172. To exercise the Council's powers in relation to the control of the carriage and storage of waste food under Section 35 of the Greater Manchester Act 1981 ("the Local Act").
173. Powers of entry under Section 38 of the Local Act for enforcement under Prevention of Damage by Pests Act 1949.
174. To exercise the Council's powers in relation to the control of stray dogs under Section 42 of the Local Act.
175. To exercise the Council's powers in relation to the temporary repair of defective premises under Section 44 of the Local Act.
176. To exercise the Council's powers in relation to urgent repairs to water, gas and electricity apparatus under Section 47 of the Local Act.
177. To take action for the seizure and retention, or destruction, or disposal of animals in circumstances where emergency action is warranted.
178. To deal with applications relating to the control of noise on construction etc., sites.
179. To exercise powers relating to the prior approval of new furnaces and to the height of chimneys.

## SCHEME OF DELEGATION TO OFFICERS

180. To exercise powers and regulations made relating to the control and measurement of grit and dust.
181. To exercise powers relating to the cleansing and disinfection of premises and the temporary removal of occupants.
182. To take action necessary for the removal of asbestos.

### **Street Scene Services (including Grounds Maintenance)**

183. To discharge the functions of the Council relating to grounds maintenance, street cleansing, arboriculture services and the removal of graffiti etc.
184. To arrange for sweeping of highways, streets and passages, the removal of fallen leaves, the removal of litter from landscaped areas, and the emptying of litter bins.
185. To be responsible for grounds maintenance functions (excluding schools).

### **Miscellaneous**

186. To exercise the powers of the Council to control street trading under the Manchester City Council Act 2010.
187. To determine matters relating to licences, permits, registrations, certificates, permissions, consents and authorisations in respect of:-
  - Minibuses
  - Storage of filling materials
  - Guard dogs.

## **DIRECTOR OF COMMERCIAL SERVICES**

The holder of the post of Director of Commercial Services shall be responsible for the management of the Commercial Services, Business Units and Parking Divisions of the Neighbourhood Services Directorate, and without prejudice to the foregoing, shall have power subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations and any legal requirements, to:

### **GENERAL FUNCTIONS**

These functions can be either executive or non-executive depending on the circumstances:

1. To be responsible for the strategic direction and development of the outward facing commercial strategy for the Council.
2. Without prejudice to the specific delegations of the Head of Business Units, to exercise a strategic overview of the Council's functions in relation to Neighbourhood Services' Business Units, including bereavement services, building cleaning, bus lanes/CCTV, catering services, community transport, depot facilities management, fleet management and supplies, Manchester Contracts, Manchester Markets, parking, pest control, public conveniences, security, storage and archiving and town hall services.
3. To co-ordinate all sponsorship and advertising activity for the Council.

### **NON-EXECUTIVE FUNCTIONS**

#### **Markets**

4. To enter into a composition with any person with respect to Payment of Tolls under Section 117 of the Greater Manchester Act 1981 ("the Local Act").
5. To permit any market place or land used for market purposes to be used for public meetings, public services, exhibitions or entertainment purposes etc. under Section 119 of the Local Act.

### **EXECUTIVE FUNCTIONS**

#### **Parking**

6. To determine applications for operational car parking spaces in the Council's car parks and to reserve car parking spaces in off-street car parks for exhibitions and other events, subject to capacity being available.
7. To discharge the functions of the Council relating to on-street and off-street parking including without prejudice to the generality of the foregoing the administration of parking within the Council's remit and dealing with the misuse of permits and the badges on vehicles, including disabled persons' badges (and with the exception of those functions in relation to approval of the making of permanent and experimental

## SCHEME OF DELEGATION TO OFFICERS

on-street parking places orders and their implementation that are delegated to the Assistant Chief Executive (Neighbourhood Strategy and Delivery).

8. To discharge the Council's functions relating to bus lane enforcement.
9. To instruct the City Solicitor to advertise the intention of making Orders concerning pay and display car parks and, where no objections are maintained, to cause the orders to be made. (Where objections are raised, to be determined by the Deputy Chief Executive (Neighbourhoods)).
10. To approve the variation of charges for parking by notice under section 46A of the Road Traffic Regulation Act 1984 (in respect of on street parking places) and under section 35C (in respect of off street car parks) subject to consultation with the Executive Member for Neighbourhood Services in all cases and to instruct the City Solicitor to carry out the necessary formalities to implement these changes.
11. To authorise the removal and immobilisation of vehicles in accordance with the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997, to authorise the City Solicitor to take proceedings in connection therewith and to store and dispose of such vehicles.
12. To deal with abandoned vehicles and vehicles causing a nuisance and to take whatever action is required, including authorisation of entry onto land and premises.
13. To discharge the Council's functions under Part 6 of the Traffic Management Act 2004 (except those relating to appointment etc. of Adjudicators to be discharged by joint committee arrangements) and in particular to approve and authorise named officers to undertake the function of cancelling Penalty Charge Notices.
14. To provide and maintain parking spaces on the highway and regulate parking on grass verges, central reservations and footways.
15. Subject to consultation with the City Solicitor to enter into Agreements in relation to any of the above matters.

### **Markets**

16. To determine appeals by market traders where the trader's licence has been revoked.

## **HEAD OF COMMUNITY AND CULTURAL SERVICES**

The holder of the post of Head of Community and Cultural Services shall discharge the functions of the Council relating to:-

- sports and recreational facilities;
- sports development;
- parks and recreational open spaces;
- libraries;

and without prejudice to the foregoing, shall have power subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations and any legal requirements, to:

### **Executive Functions**

#### **Sport and Leisure**

1. To determine applications for the concessionary use of recreational facilities.
2. To determine applications for the letting of concessions in parks for special events that fall outside the regular events that are let following receipt of Sealed Tenders.
3. To determine the use of recreational facilities for events under Pleasure Fairs.
4. To determine applications for the hire of bands, concert parties and entertainments in recreational facilities.
5. To approve Programmes of Events.
6. To set tariffs and charges for use of Council controlled leisure facilities.
7. Closure of parks under section 12 of the Greater Manchester Act 1981 ("Local Act").
8. Provision of parking places in parks, etc. under section 13 of the Local Act.
9. Provision of vehicles in parks, etc under section 14 of the Local Act.
10. Contribution towards provision of recreational facilities under section 15 of the Local Act.

#### **Libraries**

11. To authorise the selection of books and other materials in accordance with the City Council's policies.
12. To determine the retail price of handbooks and programmes produced by the Department.

## SCHEME OF DELEGATION TO OFFICERS

13. To hire out rooms in the departmental premises to suitable external organisations and individuals and power to charge when deemed appropriate a fee for such service.
14. To sell redundant materials held by the service and to determine when necessary the re-sale price thereof.
15. To sell items that are produced for resale.
16. To apply for grants, gifts or sponsorship in promotion and furtherance of the work of the Department.
17. To bar persons from library premises and/or refuse persons borrowing rights in accordance with the byelaws and regulations approved by the City Council.
18. To accept gifts from benefactors to the Department.
19. Authority to make loan arrangements for items in the library collections.
20. To grant permission to reproduce items in the library collections.
21. To offer accommodation in departmental premises where available for the meeting of suitable bodies e.g. societies of educational or cultural nature.



## DIRECTOR OF PUBLIC HEALTH

The holder of the post of Director of Public Health shall be responsible for the management of the Public Health Manchester Team within the Directorate of Families, Health and Wellbeing, and the discharge of the statutory responsibilities of the Director of Public Health under section 73A(1) of the National Health Service Act 2006, and without prejudice to the foregoing, shall have power subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations and any legal requirements, to:

1. Provide the public; elected Members of Manchester City Council and Officers of Manchester City Council with expert, objective advice on health matters.
2. Discharge Manchester City Council's duty under section 2B of the Health and Social Care Act 2006 to take such steps as the Council considers appropriate for improving the health of the people in its area, including:
  - (a) providing information and advice;
  - (b) providing services or facilities designed to promote healthy living (whether by helping individuals to address behaviour that is detrimental to health or in any other way);
  - (c) providing services or facilities for the prevention, diagnosis or treatment of illness;
  - (d) providing financial incentives to encourage individuals to adopt healthier lifestyles;
  - (e) providing assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment;
  - (f) providing or participating in the provision of training for persons working or seeking to work in the field of health improvement;
  - (g) making available the services of any person or any facilities; and
  - (h) providing grants or loans (on such terms as Manchester City Council considers appropriate).
3. Discharge any of the Secretary of State's public health protection or health improvement functions that s/he delegates to Manchester City Council, either by arrangement or under regulations, including those services mandated by regulations made under section 6C of the Health and the National Health Service Act 2006.
4. Ensure that plans are place to protect the health of the local population from threats to health and prevent, as far as possible, threats to health arising.
5. Exercise Manchester City Council's functions in planning for, and responding to emergencies that present a risk to public health.
6. Discharge Manchester City Council's functions in relation to dental public health under section 111 of the National Health Service Act 2006.
7. Discharge any functions imposed on Manchester City Council in relation to joint working with the prison service under section 249 of the National Health Service Act 2006.

## SCHEME OF DELEGATION TO OFFICERS

8. Prepare an annual report on the health of the population of Manchester City Council under section 73(B) (5) of the Health Service Act 2006.
9. Commission mandatory public health services on behalf of the Secretary of State and other prevention and health improvement services that meet the needs of the population of Manchester City Council, address the public health outcomes framework and tackle local priorities as set out in Manchester's Health and Wellbeing Strategy.
10. To ensure that public health and population health care advice is provided to the National Health Service.
11. To discharge the functions of Manchester City Council in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders.
12. To ensure that plans are in place to tackle the causes of ill health and reduce health inequalities in Manchester.
13. To support the production of a Joint Strategic Needs Assessment that sets out the current health and wellbeing needs of the population of Manchester City Council.
14. To support the Health and Wellbeing Board in its operation as a Committee of Manchester City Council and in meeting its statutory requirements under section 194 of the Health and Social Care Act 2012 and its partnership aspirations.
15. To support the Health and Wellbeing Board to produce and implement a Joint Health and Wellbeing Strategy.
16. To be responsible for Manchester City Council's public health response as a responsible authority under the Licensing Act 2003.
17. To discharge Manchester City Council's function under the Healthy Start and Welfare Food Regulations 2005 (as amended) in relation to providing Healthy Start vitamins where Manchester City Council provides or commissions a maternity or child health clinic.
18. To authorise the Consultants in Communicable Disease Control of Public Health England and/or their deputies, to act on behalf of the City Council as proper officer in the exercise of statutory functions relating to the control of infections and other disease and food poisoning.
19. To act on behalf of the Council as proper officer for the purposes of section 47 of the National Assistance Act 1948, as amended.
20. To authorise on behalf of the Council appropriate port Medical Officers in the exercise of the statutory functions relating to the control of infectious and other diseases and food poisoning.

## SCHEME OF DELEGATION TO OFFICERS

21. To authorise allowances to persons excluded from work because of notifiable disease in consultation with the Deputy Chief Executive (Performance) and (where more than £500) the Executive Member for Finance and Human Resources.

# **CHAPTER 3B**

## **DIRECTOR OF HOUSING**

The holder of the post of Director of Housing shall be responsible for the management of the Housing Services within the Regeneration Division of the Chief Executive's Department and the formulation and review of Housing and Homelessness policy and without prejudice to the foregoing, shall have power subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations and any legal requirements, to:

### **Executive Functions**

1. Discharge the functions of the Council as a Local Housing Authority (within the meaning of Section 1 of the Housing Act 1985) except those housing functions specifically delegated to the Assistant Chief Executive (Neighbourhood Strategy and Delivery) or the Strategic Director for Families, Health and Wellbeing.

Without prejudice to the generality of 1 to:

2. Manage the Council's interest in any land and property acquired or held for the purpose of fulfilling the functions of the Council as Local Housing Authority, except the authorisation of common law notices to quit, and other notices required to terminate a tenancy which shall be exercised by the City Solicitor.
3. Exercise the functions of the Council in recovering money due to the Council as Local Housing Authority, as a result of the exercise of functions under 2 above.
4. To exercise the functions of the Council under Section 22 of the Housing Act 1996 (promotion of and assistance to Registered Social Landlords).
5. To monitor and review the policy adopted pursuant to the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 SI 1860 (home improvement and relocation assistance).
6. In consultation with the Executive Member with responsibility for Housing, to make minor amendments to the Housing Allocation Scheme under Section 166A of the Housing Act 1996.

## **HEAD OF PLANNING**

The holder of the post of Head of Planning shall be responsible for the management of Planning Division within Chief Executive's Department and without prejudice to the foregoing, shall have power subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations and any legal requirements, to:

### **General Functions**

These functions can be either Executive or Non-Executive depending on circumstances.

1. To discharge the functions of the Council as Local Planning Authority (within the meaning of Section 1(2) of the Town and Country Planning Act 1990) and other functions of the Council under the Building Act 1984 and its regulations except where the matter is:
  - reserved to full Council or the Executive by statute or this Constitution; or
  - delegated exclusively to the Planning and Highways Committee; or
  - delegated to the Joint Committee for the Joint Waste Development Plan Document; or
  - the Council, the Executive or the Planning and Highways Committee or this Constitution has expressly limited the extent of this delegation.

Without prejudice to the generality of the above:

2. To take any urgent action in relation to planning and building control matters after consultation with the appropriate Chair or Executive Member, subject to any such action taken under this power being reported to the next ordinary meeting of the Executive or appropriate committee.
3. To authorise officers to enter land or premises, to inspect, to investigate and to exercise any other related powers in accordance with the Council's functions as local planning authority and the Council's functions under the Building Act 1984 and its Regulations and any other functions delegated to the Head of Planning.
4. To authorise the City Solicitor to take legal proceedings in connection with non-compliance with any statutory notice, and to exercise any other available remedies in connection with the same.
5. To authorise the City Solicitor to take legal proceedings under the Planning (Listed Buildings and Conservation Areas) Act 1990.
6. To authorise the City Solicitor to take injunctive proceedings under Section 222 of the Local Government Act 1972 and Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Section 214A of the Town and Country Planning Act 1990 in exercise of the Council's functions as Local Planning Authority.
7. To issue decision notices in respect of any application for planning consent and for listed building consent upon receipt of an indication by the Secretary of State that he/she does not require that application to be referred to him/her, such notices to

## SCHEME OF DELEGATION TO OFFICERS

reflect the decision which the Council has already indicated that it is minded to take on the application concerned.

8. To respond to consultations and all other requests relating to planning applications, listed building applications, nationally significant infrastructure projects and any other plans and proposals, and all other matters of a planning nature in accordance with approved planning policies of the Council.
9. To take decisions on applications to determine whether planning permission is required, in consultation with the City Solicitor where appropriate.
10. To exercise the powers of the Council in relation to access and egress to public and other buildings and means of escape in the case of fire.
11. To exercise the powers of the Council as Local Planning Authority (within the meaning of Section 1(2) of the Town and Country Planning Act 1990) to carry out works in default under the Planning (Listed Building and Conservation Areas) Act 1990 and the Town and Country Planning Act 1990 (“the Act”).
12. To exercise the powers of the Council as Hazardous Substances Authority (within the meaning of Section 1 of the Planning (Hazardous Substances) Act 1990) to issue notices pursuant to Section 24 of that Act and to authorise the City Solicitor to take injunctive proceedings under Section 26AA of that Act.

### **Non-Executive Functions**

13. To authorise the City Solicitor to prepare and serve notices under Section 330 of the Town and Country Planning Act 1990 and Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 in exercise of the Council's functions as Local Planning Authority.
14. To exercise the Council's powers in relation to the repair of walls etc. of yards under Section 43 of the Greater Manchester Act 1981 (“the Local Act”).
15. To exercise the Council's powers in relation to the weatherproofing of property under Section 50 of the Local Act.
16. To exercise the Council's powers in relation to the safety of ceilings in bingo halls under Section 55 of the Local Act.
17. To exercise the Council's powers in relation to the safety of stands under Section 58 of the Local Act.
18. To exercise the Council's powers in relation to fire precautions under Sections 63 and 66 of the Local Act.
19. To exercise the Council's powers in relation to the storage of flammable material under Sections 67-73 of the Local Act.
20. Power to decline to determine application for planning permission under Section 70A of the Town and Country Planning Act 1990 (“the 1990 Act”).

## SCHEME OF DELEGATION TO OFFICERS

21. To refuse applications for planning consent, listed building consent and for conservation area consent, where the proposal is clearly contrary to approved Council planning policies.
22. To approve (including approvals subject to conditions) applications for planning consent, for listed building consent, for conservation area consent and for development by other Council Committees and to determine applications to vary or delete conditions either where there is no objection from a third party of a planning nature or where there are objections of a planning nature from third parties but the proposal is clearly in accordance with approved Council planning policies.
23. Duties relating to the making of determinations of planning applications under Sections 69, 76 and 92 of the 1990 Act as Articles 13, 14, 16 to 24, 26 to 31 and 36 to 38 of the Town and Country Planning (Development Management Procedure) Order 2010 and directions made thereunder.
24. Power to determine applications for planning permission made by a local authority, alone or jointly with another person under Section 316 of the 1990 Act as well as the Town and Country Planning General Regulations 1992 (to approve (including approvals subject to conditions) applications for planning consent either where there is no objection of a planning nature from third parties or where there are objections of a planning nature from third parties but the proposal is clearly in accordance with approved Council planning policies).
25. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights under Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995.
26. Power to enter into agreements under Section 106 of the 1990 Act.
27. Power to issue a certificate of existing or proposed lawful use or development under Section 191(4) and 192(2) of the 1990 Act.
28. Power to serve a completion notice under Section 94(2) of the 1990 Act.
29. Power to grant consent for the display of advertisements under Section 220 of the 1990 Act as well as Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
30. Power to authorise entry onto land under any relevant provision of the 1990 Act and the Planning (Listed Buildings and Conservation Areas) Act 1990 or Section 36 of the Planning (Hazardous Substances) Act 1990.
31. Power to serve a planning contravention notice, breach of condition notice or stop notice under Sections 171C, 187A and 183(1) of the 1990 Act.
32. Power to issue a temporary stop notice under Section 171E of the 1990 Act.
33. Power to issue an enforcement notice under Section 172 of the 1990 Act.

## SCHEME OF DELEGATION TO OFFICERS

34. Power to apply for an injunction restraining a breach of planning control under Section 187B of the 1990 Act.
35. Power to determine applications for hazardous substances consent, and related powers under the Planning (Hazardous Substances) Act 1990.
36. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase 1 or 2 sites, or mineral permissions relating to mining sites, as the case may be, are to be subject under Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 and paragraph 6(5) of schedule 14 to that Act.
37. Power to require proper maintenance of land under Section 215(1) of the 1990 Act.
38. To authorise the City Solicitor to prepare and serve Notices under Section 215 of the 1990 Act.
39. Power to determine application for listed building consent, and related powers under Sections 16(1) and (2), 17, and 33(1) of the Planning (Listed Buildings in Conservation Areas) Act 1990 (to approve (including approvals subject to conditions) applications for planning consent either where there is no objection of a planning nature from third parties or where there are objections of a planning nature from third parties but the proposal is clearly in accordance with approved Council planning policies).
40. Power to determine applications for conversion area consent under Section 16(1) of the Planning (Listed Buildings in Conservation Areas) Act 1990 applied by section 74(3) (to approve (including approvals subject to conditions) applications for planning consent either where there is no objection of a planning nature from third parties or where there are objections of a planning nature from third parties but the proposal is clearly in accordance with approved Council planning policies).
41. Duties relating to applications for listed building consent and conservation area consent under Sections 13(1), 14(1) and (4) of the Planning (Listed Buildings in Conservation Areas) Act 1990 as well as Regulations 3 to 6 and 13 of the Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990.
42. Power to issue enforcement notice in relation to demolition of unlisted building in conservation area under Section 38 of the Planning (Listed Buildings in Conservation Areas) Act 1990.
43. Power to apply for an injunction in relation to a listed building under Section 44A of the Planning (Listed Buildings in Conservation Areas) Act 1990.
44. Power to execute urgent works under Section 54 of the Planning (Listed Buildings in Conservation Areas) Act 1990 subject to consultation with the Chair of Planning and Highways Committee.



## SCHEME OF DELEGATION TO OFFICERS

45. Powers relating to the preservation of trees under Sections 197 to 214D of the 1990 Act as well as Trees Regulations 2012.
46. Powers relating to the protection of important hedgerows under the Hedgerows Regulations 1997.
47. Powers relating to complaints about high hedges under Part 8 of the Anti-Social Behaviour Act 2003.
48. Power to issue amend or replace safety certificates (whether general or special) for sports grounds under the Safety of Sports Grounds Act 1975.
49. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds under Part 3 of the Fire Safety and Safety of Places of Sport Act 1987.
50. To administer and enforce the requirements in accordance with Articles 25 (d) (i) and (ii) of the Regulatory Reform (Fire Safety) Order 2005 at designated sports grounds requiring a general safety certificate, under section 1(1) of the Safety at Sports Grounds Act 1975 and Regulated Stands within the meaning of section 26(5) of the Fire Safety and Safety of Places of Sports Act 1987.

### **Executive Functions**

51. After consultation with the City Solicitor, to issue certificates of alternative development under the Land Compensation Act 1961.
52. To authorise the City Solicitor to respond to applications to the High Court under Sections 287 and 288 of the Town and Country Planning Act 1990 or to make applications to the High Court under the same sections in respect of decisions by the Secretary of State.
53. On receipt of blight notices, to authorise the City Solicitor to serve a counter-notice under Sections 151 and 152 of the Town and Country Planning Act 1990.
54. On receipt of a purchase notice, to authorise the City Solicitor to serve a response notice under Section 139 of the Town and Country Planning Act 1990.
55. To exercise the functions of the Council as a mineral planning authority as set out in the Environment Act 1995.
56. To adopt screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.
57. To exercise the functions set out in Parts I & II of the Building Act 1984 (Building Regulations and Supervision of Building Work, etc. Otherwise than by Local Authorities).
58. To exercise the functions set out in Section 71 and Section 72 of the Building Act 1984 (Entrances, Exits, etc, to be required in certain cases and Means of Escape in case of Fire).

## SCHEME OF DELEGATION TO OFFICERS

59. To exercise the functions set out in Sections 77 to 83 of the Building Act 1984 (Dangerous, Ruinous and Dilapidated Buildings and Notices in respect of Intended Demolition).
60. To exercise the functions set out in the Building (Local Authority Charges) Regulations 2010.
61. To provide advice and guidance to Council departments and other organisations about energy conservation, purchasing and efficiency and related promotional activities and, in conjunction with the City Treasurer, to enter into agreements for the purchase and supply of energy and water.
62. To administer the Council's Disabled Access grants scheme.
63. To progress environmental improvement schemes across the City through to final completion on site following approval of the schemes by the relevant Committees of the Council.
64. To exercise the Council's powers in relation to the vesting of former highway land under Section 29 of the Greater Manchester Act 1981.
65. To approve non material changes to planning permission under Section 96A of the Town and Country Planning Act 1990 (when provision is in force).

## **HEAD OF CORPORATE PROPERTY**

The holder of the post of Head of Corporate Property shall be responsible for the management of the Corporate Property Division of the Corporate Services Department and without prejudice to the foregoing, shall have power subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations and any legal requirements, to:

### **Executive Functions**

1. To exercise the functions of the Council relating to caravan sites and unauthorised encampments (such functions to include the exercise of the powers of the Council conferred by Sections 77 to 80 of the Criminal Justice and Public Order Act 1994).
2. To exercise the power conferred by the Countryside and Rights of Way Act 2000 on owners of, or persons having an interest in, access land or land proposed to be access land, in consultation with the Chief Officer within whose remit management of the relevant land lies.
3. Where a disposal of open space within the meaning of the Open Spaces Act 1906 is in prospect, to instruct the City Solicitor to advertise in accordance with Section 123 of the Local Government Act 1972 or Section 233 of the Town and Country Planning Act 1990.
4. To accept any offer or tender and agree and arrange for, the disposal of land or property and other interests in land or property provided the offer or tender does not exceed £500,000 and is in the opinion of the Head of Corporate Property the best consideration that can reasonable be obtained, subject to the consent of the Executive in the case of disposals of the freehold (other than freehold disposals for the purposes of the economic well-being of the area, or plots of land of no strategic importance and incapable of being developed on their own, or where the Leasehold Reform Act will eventually require a freehold sale, in all of which cases the consent of the Executive is not required).
5. To agree terms for the sale of land and property where the Council's property is subject of compulsory purchase by another body and the consideration does not exceed £500,000.

## **HEAD OF BUSINESS UNITS**

The holder of the post of Head of Business Units in the Neighbourhood Services Directorate shall have power subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations and any legal requirements, to:

### **GENERAL FUNCTIONS**

These functions can be either Executive or Non-Executive depending on the circumstances:

#### **Business Units**

1. To discharge the functions of the Council relating to the services in Neighbourhood Services' Business Units including Bereavement Services, Building Cleaning, Bus Lanes/CCTV, Catering Services, Community Transport, Depot Facilities Management, Fleet Management and Supplies, Manchester Contracts, Manchester Markets, Parking, Pest Control, Public Conveniences, Security, Storage and Archiving and Town Hall Services.
2. To tender for and carry out functional work for the City Council and other public bodies for the services provided by Neighbourhood Services' Business Units.
3. To vary the Neighbourhood Services' Business Units employee establishment to reflect tender results and workload prospects, in consultation with the Executive Member for Finance and Human Resources.
4. To incur expenditure in accordance with the approved Neighbourhood Services' Business Plan.
5. To vary approved expenditure in the Neighbourhood Services' Business Units Business Plan to reflect tender results and workload properties in consultation with the Executive Member for Finance and Human Resources.

### **NON-EXECUTIVE FUNCTIONS**

#### **Miscellaneous**

6. Obtaining particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

### **EXECUTIVE FUNCTIONS**

#### **Bereavement Services**

7. To arrange and undertake public and private burials and associated activities under the Local Government Act 1972 and Local Authorities' Cemeteries Order 1977 (as amended)

## SCHEME OF DELEGATION TO OFFICERS

8. To arrange and undertake cremations and associated activities under the Regulations as to Cremation 1930 (as amended) and the Environmental Protection Act 1990.
9. To arrange for the provision of a municipal funeral service under the Local Government Act 1972.

### **Building Cleaning**

10. To be responsible for the cleaning of Council owned buildings.

### **CCTV / Bus Lanes**

11. To operate or commission (in Consultation with the Assistant Chief Executive (Neighbourhood Strategy & Delivery) the operation of CCTV surveillance systems in connection with the functions of the Council relating to highways / traffic matters, parking, environmental health, environmental protection, pollution control, contaminated land, health and safety, food safety, animal welfare, consumer protection, weights and measures, licensing and implementation of the Council's Crime and Disorder Strategy formulated under Section 5 and 6 of the Crime and Disorder Act 1998 and the Council's Sustainable Community Strategy formulated under Section 4 of the Local Government Act 2000.

### **Catering Services**

12. To discharge the functions of the Council relating to the strategic management of catering in schools and to manage the service delivery of Manchester Fayre including catering in parks and catering concessions, school meals services and catering for the Directorate for Adults, Health and Wellbeing (e.g. luncheon clubs).
13. To exercise or waive the rights to sole and exclusive catering rights within all City Council establishments.
14. To hire bands, discotheques and entertainments in Civic Catering establishments either for special promotional purposes or on behalf of a third party where this is subject to a full recharge.

### **Fleet Management**

15. To arrange for the maintenance and repair of Council and Manchester Enterprise owned and operated vehicles and to be responsible for the testing of Hackney Carriages and Private Hire vehicles, and the M.O.T. testing of private motor vehicles.
16. To arrange for the management of the Council's vehicle fleet including the disposal of surplus vehicles.

### **Manchester Markets**

17. To discharge the functions of the Council relating to Manchester Markets.

## SCHEME OF DELEGATION TO OFFICERS

18. To revoke and suspend market traders' licences.
19. Without prejudice to the generality of 18 above, to determine the following matters: -
  - 19.1 allocation, letting or revocation of stalls and premises to traders;
  - 19.2 applications for occupants of markets to install equipment in connection with their business;
  - 19.3 routine assignment of tenancies;
  - 19.4 minor variations in type of business and change of names;
  - 19.5 charity collections in markets;
  - 19.6 applications for licences for privately operated specialist markets and the level of licence fees;
  - 19.7 applications for licences for charity car boot sales; and
  - 19.8 legal action as necessary in order to protect the City Council's market rights in consultation with the City Solicitor.

### **Pest Control**

20. To be responsible for the Council's pest control service.

Without prejudice to the generality of 20 above:
21. To discharge the Council's functions in relation to the Control of rats and mice under Section 37 of the Greater Manchester Act 1981 ("the Local Act").

### **Public Conveniences**

22. To be responsible for provision of public conveniences.

### **Town Hall Services**

23. To be responsible for Town Hall Services including Security.

# **PART 4**

## **RULES OF PROCEDURE**

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- Section B.** Access to Information Procedure Rules
- Section C.** Budget and Policy Framework Procedure Rules
- Section D.** Executive Procedure Rules
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# Part 4

## Section A

# Council Procedure Rules

SECTION A: COUNCIL PROCEDURE RULES

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(FOR USE AT COUNCIL AND COMMITTEE AND SUB-COMMITTEE MEETINGS)

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- Rule 3. Lord Mayor and Deputy Lord Mayor**
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## COUNCIL PROCEDURE RULES

### 1. Interpretation and Chair's Ruling

- 1.1 These Rules apply to meetings of the full Council and, where appropriate, to meetings of committees and sub committees. None of these Rules apply to meetings of the Executive.
- 1.2 References in these Rules to the Lord Mayor, Leader of the Council or chair, include the appointed deputy or any other member acting in their absence.
- 1.3 References in these Rules to the Lord Mayor shall include the chair of any meeting where appropriate.
- 1.4 These Rules should be read in conjunction with other parts of the Council's Constitution.
- 1.5 \*\*\*These Rules are subject to any statute or other enactment whether passed before or after these Rules came into effect.
- 1.6 The ruling of the Lord Mayor on the application and interpretation of these Rules is final.

### 2. Suspension of Rules

- 2.1 \*\*\*With the exception of the Rules marked by an asterisk (\*\*\*), any Rule may be suspended at Council meetings either by a motion included on the agenda or by a motion put to the meeting without notice and passed by a majority of those present and voting. A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present.

### 3. Lord Mayor and Deputy Lord Mayor

- 3.1 \*\*\*The Lord Mayor will be elected, and the Deputy Lord Mayor will be appointed at the Annual Meeting of Council.
- 3.2 \*\*\*If the Office of Lord Mayor becomes vacant during a Municipal Year it will be filled at the next Council meeting, or, if a vacancy arises within 14 days before that meeting, it will be filled at the next but one meeting.
- 3.3 If the Office of Deputy Lord Mayor becomes vacant during a Municipal Year it will be filled at the next Council meeting, or, if a vacancy arises within 14 days before that meeting, it will be filled at the next but one meeting.
- 3.4 The Lord Mayor will chair meetings of the Council. In the Lord Mayor's absence the Deputy Lord Mayor will chair the meeting. In the absence of both the Lord Mayor and Deputy Lord Mayor, the Council will appoint another member to chair the meeting.

## COUNCIL PROCEDURE RULES

### 4. Political Groups and Leaders

- 4.1 A political group will be treated as constituted when the Chief Executive has received a notice in writing signed by two or more members of the Council stating: -
- a) that the members who have signed it wish to be treated as a political group;
  - b) the name of the group; and,
  - c) the name of one member of the group who has signed the notice and who is to act as its leader.
- 4.2 \*\*\*The notice may specify the name of one other member of the group who has signed the notice and who is authorised to act in the place of the leader of the group (This authorised member is referred to as "the representative").
- 4.3 \*\*\*The leader of the group may be changed by a further notice in writing to the Chief Executive signed by a majority of the members of the group.
- 4.4 \*\*\*The name of the group and of "the representative" (see also Rule 4.2) may be changed by a further notice in writing to the Chief Executive signed by the leader of the group or a majority of the members of the group.
- 4.5 \*\*\*A member of the Council is to be treated as a member of a political group if s/he has: -
- a) signed a notice in accordance with Rule 4.1; or
  - b) given the Chief Executive a notice in writing, signed by her/him and by the leader (or representative) of the group or by a majority of members of the group, stating that s/he wishes to join the group.
- 4.6 \*\*\*A person is to be treated as having ceased to be a member of a political group when: -
- a) s/he has ceased to be a member of the authority;
  - b) s/he has notified the Chief Executive in writing that s/he no longer wishes to be treated as a member of the group;
  - c) s/he joins another political group;

## COUNCIL PROCEDURE RULES

- d) the Chief Executive receives a notice in writing signed by a majority of members of the group stating that they no longer wish her/him to be treated as a member of it.
- 4.7 \*\*\*No person shall be treated as a member of more than one political group at any given time.
- 4.8 The Chief Executive will keep and maintain a record of the current membership of each political group.
- 4.9 The Leader of the Council will be elected at the Annual Meeting of the Council on 19 May 2010 and subsequently in accordance with Rules 7.1 and 7.2.
- 4.10 The leader of the next largest Political Group or combination of Groups (as chosen by the members of the group/s) will be known as the Leader of the Opposition.

### **5 Establishment of Committees and Sub-Committees**

- 5.1 Subject to Rules 5.1 to 0 below, the Council may establish such committees as it considers necessary to carry out the work of the Council and may refer to those committees such matters as are considered appropriate.
- 5.2 \*\*\*The Council shall establish a committee to discharge its functions relating to Art Galleries. Such committee should consist of at least 14 elected members and 7 non-voting members appointed by the Victoria University of Manchester. The Council and the University may agree that a lesser number of University members be appointed.
- 5.3 The Council shall establish a Standards Committee, the composition of which will be in line with Article 9 of Part 2 of the Constitution.
- 5.4 The Council shall establish a Health and Well-being Board in accordance with section 194 of the Health and Social Care Act 2012, the composition of which will be in line with Article 8.2 of part 2 of the Constitution.
- 5.5 The Council shall establish a Licensing Committee with not less than 10 and not more than 15 members.
- 5.6 The Council shall establish a Planning and Highways Committee.
- 5.7 The Council shall establish a Licensing and Appeals Committee.
- 5.8 The Council shall establish a Wythenshawe Area Committee as an area committee consisting of the councillors elected for the wards of Baguley, Brooklands, Northenden, Sharston and Woodhouse Park.

## COUNCIL PROCEDURE RULES

- 5.9 The Council shall appoint a Constitutional and Nomination Committee, a Personnel Committee, an Employee Appeals Committee and an Audit Committee.
- 5.10 The Council shall establish the following overview and scrutiny committees:
- Young People and Children
  - Communities
  - Neighbourhoods
  - Economy
  - Health
  - Finance
- 5.11 Committees may establish standing sub-committees, subject to the approval of the Council, to carry out the work of the committee and may refer to those sub-committees such matters as are considered appropriate. Committees may also establish ad hoc sub-committees to consider any specific matter referred to them.
- 5.12 \*\*Subject to Rules 5.13 and 5.14 where a matter is referred to a committee or sub-committee, the decision of the committee must be approved by the Council before it becomes effective.
- 5.13 \*\*Except in relation to those decisions which by statute must only be taken by the full Council, the Council may delegate powers to committees or sub-committees. Where a matter has been delegated to a committee, the committee may further delegate the matter to a sub-committee unless the Council otherwise direct.
- 5.14 \*\*\*Subject to Rule 9, where a matter is delegated in accordance with Rule 5.13 above, the decisions of the committee or sub-committee do not require approval by the Council (or committee) unless the delegation has been previously withdrawn in relation to the particular item.

## **6 Membership of Committees and Sub-Committees and Joint Authorities and Joint Committees**

- 6.1 In relation to committees the Annual Meeting of the Council will: -
- a) Subject to Rule 5 above, determine the number of members to serve on them;
  - b) Allocate seats on them to the political groups in accordance with the principles of political balance; and
  - c) Appoint named members to them giving effect to the wishes (where expressed) of each political group.

## COUNCIL PROCEDURE RULES

- 6.2 \*\*\*Appointments to all sub-committees will be made by their parent committees in accordance with: -
- a) The principles of political balance (as to the allocation of numbers of seats); and
  - b) the wishes of the political groups (as to individual appointments).
- 6.3 Members serving on sub-committees are not required to be members of the parent committee.
- 6.4 Where the Council is entitled to seats on a joint authority or on a joint committee with another local authority or local authorities, appointments to such seats will be made by the Council.
- 6.5 \*\*\*Where the Council is entitled to three or more seats on a joint authority or joint committee ("relevant joint authority/joint committee"), the Council in making appointments will: -
- a) allocate seats on them to the political groups in accordance with "the principles of political balance", and
  - b) appoint members to them giving effect to the wishes (where expressed) of the relevant political group.
- 6.6 \*\*\*"The principles of political balance" are: -
- a) that not all seats on the committee, sub-committee or relevant joint authority or joint committee ("the body") are allocated to the same political group;
  - b) that the majority of seats on the body are allocated to a political group holding the majority of seats on the Council;
  - c) that, subject to (a) and (b) above, the total number of seats held by each political group on all committees of the Council taken as a whole is proportionate to that group's membership of the authority;
  - d) that, subject to (a) and (c) above, the number of seats held by each political group on individual bodies is proportionate to that group's membership of the Council.
- 6.7 \*\*\*Where a political group wishes to change one of its appointed members on a committee or sub-committee, the Council or parent committee shall give effect to that group's wishes.
- 6.8 \*\*\*Where there is a change in the political balance of the Council, the allocation of seats on committees and sub-committees will be reviewed and changes made: -

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- a) to reflect the new political balance; and,
  - b) the wishes of the political groups.
- 6.9 \*\*\*Any overview and scrutiny committee discharging education functions shall also contain, as voting members, three elected representatives of parent governors; one appointed representative each of the Church of England, the Roman Catholic Church and the Jewish Faith.
- 6.10 In addition to Rule 5.2 non-voting co-opted members may be appointed by: -
- a) The Council, to serve on its committees; and,
  - b) Committees to serve on their sub-committees.
- 6.11 As well as allocating seats on committees, the Council may allocate seats in the same manner for substitute members.
- 6.12 For each committee, the Council may appoint up to the same number of substitutes in respect of each political group as that group holds seats on that committee.
- 6.13 Substitutes will have all the powers and duties of an ordinary member of the committee but will not be able to exercise any special powers exercisable by the person they are substituting.
- 6.14 Substitute members may attend meetings only in the capacity set out below: -
- a) to take the place of the ordinary members for whom they are designated substitute;
  - b) where the ordinary member will be absent for the whole of the meeting; and
  - c) after notifying the Chief Executive by 9.00am on the day of the meeting of the intended substitution.

### **7. The Leader and the Executive**

- 7.1 The Council will elect the Leader at each Annual Meeting for a period of one municipal year expiring on the date of the next annual meeting.
- 7.2 The Council may re-elect the same Councillor as the Leader on the expiry of his/her term of office.



## COUNCIL PROCEDURE RULES

- 7.3 If before the expiry of the Leader's term of office, the Leader –
- (a) resigns the office of Leader, or
  - (b) ceases to be a councillor, or
  - (c) is removed from office by a resolution of the Council under Article 7.3 (b)(iii) in Part 2 of the Constitution,
- the Council will elect a new Leader as soon as reasonably practicable.
- 7.4 The Leader will appoint between two and nine councillors to the Executive (one of whom will be appointed by the Leader to act as Deputy Leader).

### **8. Chairs and Deputy Chairs**

- 8.1 The Council will appoint an Independent Member of the Standards Committee as Chair of the Committee on the recommendation of the Constitutional and Nomination Committee.
- 8.2 The Council will appoint chairs and (where required) deputy chairs of ordinary committees, overview and scrutiny committees, and advisory committees on the recommendation of the Constitutional and Nomination Committee.
- 8.3 Chairs and (where required) deputies of sub-committees of committees will be appointed by the parent committee.
- 8.4 The Council may at any time remove a chair or deputy of a committee.
- 8.5 Where there is a vacancy for chair, the deputy chair will act as chair until the Council fills the vacancy.
- 8.6 Where there are vacancies for both chair and deputy, the committee or sub-committee will appoint one of its members to be temporary chair until the vacancy is filled by the Council.
- 8.7 Written notice of the resignation of a chair or deputy will be effective on receipt by the Chief Executive.
- 8.8 A member may not be chair or deputy of the same committee, or of the same sub-committee, for more than four consecutive whole municipal years.
- 8.9 A member who has been the chair of the same committee for four municipal years cannot be the deputy chair during the following Year.
- 8.10 If the chair and deputy are disqualified from acting, are absent, or decline to act as chair, the meeting will appoint another member to

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chair the meeting. If that member has to leave, another member should be appointed.

8.11 A joint meeting should appoint a member to chair the meeting.

### 9. Decisions Taken Under Delegated Powers

9.1 Rule 9 applies to decisions taken by the Art Galleries Committee and the Personnel Committee (“relevant Committees”) exercising delegated powers.

9.2 Decisions taken by a relevant committee exercising delegated powers will become valid decisions of the authority as from the time and date set out below: -

- a) where Rule 9.4 applies, with immediate effect.
- b) where the Chief Executive has not received a relevant requisition, as from 4.00pm on the fifth day after the day on which the decision was published.
- c) where the Chief Executive receives a relevant requisition, as from the date when the decision is confirmed by Council, with or without modification or amendment.

9.3 A relevant requisition is a written request that a decision should not take effect until confirmed by Council, where such request: -

- a) has been delivered to the Chief Executive before 4.00pm on the fifth day after the day on which the decision was published; and
- b) has been signed by: -
  - (i) any five members of the Council [this requirement will be satisfied either by individual letters from five members or one requisition signed by five members]; or
  - (ii) the Chair of a Scrutiny Committee whose remit covers the decision in question.

9.4 Decisions taken by a relevant committee exercising delegated powers will become valid decisions of the authority with immediate effect: -

- a) where a matter has been approved in principle by Council and specifically delegated to a relevant Committee for detailed implementation, or
- b) where the relevant Committee determines on the written advice of either the Head of the Paid Service, the Chief Finance Officer or the Monitoring Officer that a matter is urgent on the grounds

## COUNCIL PROCEDURE RULES

that the legal or financial position of the Council or the interests of the Council or the residents of Manchester would be prejudiced if action were not taken in advance of the next ordinary Council meeting, or

- c) where the relevant Committee determines on the advice of the City Solicitor that a matter is quasi-judicial.

9.5 Decisions of relevant Committees will be published, including where possible by electronic means, and shall be available at the Town Hall normally within 2 days of being made. The record of the decisions will bear the date on which it is published.

### 10 Convening Meetings

10.1 Subject to rule 10.2, the Chief Executive is responsible for determining the schedule of and convening all meetings.

10.2 Dates and times of ordinary meetings of the Council, will be agreed by the Council at the Annual Meeting.

10.3 The Annual Meeting of the Council will take place on the second Wednesday following the municipal elections in May unless otherwise agreed by the Council.

10.4 \*\*\*A meeting of the Council will take place between 1st March and 10th March each year in order to calculate the budget requirement and set the Council tax.

10.5 Council meetings will start at 10.00 am unless otherwise determined by the Lord Mayor.

10.6 \*\*\*Those listed below may request the Chief Executive to call extraordinary Council meetings: -

- a) The Council by resolution
- b) The Lord Mayor
- c) The Monitoring Officer
- d) any five members of the Council if they have signed a requisition presented to the Lord Mayor and he/she refused to call a meeting or has failed to do so within seven days of the presentation of a requisition.

10.7 Meetings of committees and sub-committees will be convened by the Chief Executive in consultation with the chair.

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### 11 Cancellling Meetings

11.1 The Chief Executive may cancel or postpone any meeting, in consultation with the chair (or the Lord Mayor in the case of City Council meetings), prior to the issue of the agenda or subsequently if there is no business to be transacted.

### 12. Withdrawal of Items from Agenda

12.1 The Chief Executive may, in consultation with the City Solicitor and the Chair (or the Lord Mayor in the case of City Council meetings) withdraw an item from the agenda for legal reasons.

### 13. Order of Business

13.1 Subject to Rules 13.3; 13.4; and 14.8, the Agenda and order of business for meetings will be determined by the Chief Executive in consultation with the appropriate chair and chief officers. Items may be withdrawn from an agenda with the consent of the meeting.

13.2 The order of business may be altered at the meeting.

13.3 Business at the Annual Meeting of the Council will consist of: -

- a) Special business introduced by the Lord Mayor.
- b) Election of the Lord Mayor and appointment of the Deputy Lord Mayor.
- c) Approval of the minutes of the last meeting as a correct record.
- d) Disclosure of pecuniary and non-pecuniary interests by members.
- e) Election of the Leader of the Council
- f) Appointment of overview and scrutiny committees, a Standards Committee, an Art Galleries Committee, a Licensing Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions as set out in Part 3 of the Constitution.
- g) Appointment of representatives.
- h) Reports of the Executive and questions under Rules 23.2 and 23.3.

## COUNCIL PROCEDURE RULES

- i) Reports or minutes of overview and scrutiny committees, including matters referred to Council by overview and scrutiny committees.
- j) Annual reports of overview and scrutiny committees.
- k) Minutes of other committees and questions under Rules 23.2 and 23.3.
- l) Approval of dates of meetings.
- m) Approval of the delegation of the Council's non-executive functions in the Scheme of Delegation set out in Part 3 of this Constitution.
- n) Questions to nominated spokespersons of joint authorities (as in Rule 24.1).
- o) Notices of Motion submitted under Rule 14.1 (to be dealt with in their order of receipt by the Chief Executive).
- p) Any other business specified in the summons to the meeting.

13.4 The business at all ordinary Council meetings will consist of: -

- a) the Lord Mayor and Deputy Lord Mayor are absent, to appoint a person to chair the meeting.
- b) Any announcements or special business (including the submission of any urgent business) introduced by the Lord Mayor.
- c) Disclosure of pecuniary and non-pecuniary interests by members.
- d) Approval of the minutes of the last meeting as a correct record.  
  
(The Lord Mayor will move that the minutes be approved and, if so approved, will sign them as a correct record. There will be no discussion on the minutes except as to their accuracy).
- e) Consideration by the Council of any Petitions Requiring Debate that have been submitted in accordance with the Council's Petition Scheme and which have been included on the Agenda for the Council meeting.
- f) Any business remaining from previous meetings.
- g) Report of the Executive and any questions under Rules 23.2 and 23.3.

## COUNCIL PROCEDURE RULES

- h) Reports or minutes of overview and scrutiny committees, including matters referred to Council by overview and scrutiny committees.
- i) Minutes of other committees and any questions under Rules 23.2 and 23.3.
- j) Questions to nominated spokespersons of joint authorities (as in Rule 24.1).
- k) Notices of Motion submitted under Rule 14.1 (to be dealt with in their order of receipt by the Chief Executive).
- l) Any other business specified in the summons to the meeting.

### **13A. Petitions Requiring Debate**

#### 13A.1 Presentation of Petition Requiring Debate

Where a Petition Requiring Debate has been properly submitted in accordance with the Council's Petition Scheme and is included on the Agenda for an ordinary or extraordinary Council meeting, the main petition contact (as defined in the Council's Petition Scheme) or a person nominated by the main petition contact to act on their behalf, will be allowed to speak for a maximum of 5 minutes in order to present their petition to Council.

#### 13A.2 Petition Debate

A Petition Requiring Debate under the Council's Petition Scheme will be debated by Council Members. Any Council Member who speaks in a Petition Debate may speak only once and for a maximum of 5 minutes on the issue raised by the Petition Requiring Debate. When chairing a Petition Debate the Lord Mayor will normally seek to ensure that the Petition Debate lasts for a maximum of 25 minutes, although the Lord Mayor has discretion to extend the time for a Petition Debate where he/she considers this to be appropriate.

#### 13A.3 Council Response to Petitions following a Petition Debate

At the end of the Petition Debate, the Lord Mayor will ask for motions on how the Council wishes to respond to the Petition Requiring Debate which may include:

- a) Taking the action requested in the Petition, with or without modifications;
- b) Noting the Petition, but not taking the action requested in the Petition;
- c) Commissioning further investigation into the matter;

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- d) Deciding whether to make recommendations to the Executive where the matter falls to the Executive to make the final decision.

Members will vote on such motion(s) by voice or by show of hands, or by ballot, at the discretion of the Lord Mayor.

### 13A.4 Notification of the Council's Response following a Petition Debate

The main petition contact will receive written confirmation from the Council of the decision taken by the Council following a Petition Debate and this will be published on the Council's Petition Website (unless under all the circumstances the Council believes that this would be inappropriate).

## 14. Notices of Motion to Council

- 14.1 Except for the motions listed in Rule 19.1, and motions in relation to the Council's response to a Petition Requiring Debate under Rule 13A.3, written notice of every motion must be received by the Chief Executive no later than 12.00 noon on the ninth day before the meeting (e.g. where the Council meeting is held on a Wednesday, the Monday in the week preceding the Council meeting), unless that day is not a working day in which case the notice must be received by noon on the first working day thereafter.
- 14.2 Motions must be signed by the proposer and four other members.
- 14.3 The proposer of the motion will be taken as being the first signature on the Notice of Motion, unless otherwise indicated on the notice.
- 14.4 The motion will be withdrawn from the agenda if the proposer is not present at the time that it is due to be considered.
- 14.5 The Chief Executive will keep any motion received, together with a record of the time and date of receipt, in a register available for inspection by members of the Council.
- 14.6 Motions must either be about matters which affect the Council or the interests of the City or its residents, provided that no such motion may seek to take a decision in respect of a matter which is the responsibility of the Executive (other than to make a recommendation).
- 14.7 Following consultation with the Chief Executive, the Lord Mayor may: -
  - a) Exclude from the Council agenda any motion which s/he considers to be out of order; or,
  - b) Amend any motion subject to the agreement of the proposer.

## COUNCIL PROCEDURE RULES

- 14.8 Motions will be listed on the Council agenda in the order received.
- 14.9 The proposer may withdraw a motion at any time prior to its consideration. Such a withdrawal must be put in writing to the Chief Executive.
- 14.10 When the proposer of a motion is unable to attend the Council meeting s/he may write to the Lord Mayor authorising another member who signed the motion to move it. If no such authority has been given, the motion falls.
- 14.11 Motions containing proposals which would: -
- a) Increase the capital and / or, revenue expenditure of the Council and / or,
  - b) Reduce the income of the Council / must first be referred to the Executive by the Chief Executive prior to consideration by Council.
- 14.12 Prior to consideration of a motion, the Lord Mayor may invite the meeting to decide whether it should be referred to the Executive or an appropriate committee(s) for a report.

### 15. Quorum

- 15.1 The minimum number of voting Members necessary for business to be dealt with at each meeting (the "Quorum") is as follows: -

Council	25
Committees (with more than 12 Members)	5
Committees (with 12 or fewer Members)	3
Joint meetings*	Relevant Quorum from each Committee
Sub-Committees	3
Joint meetings*	3 from each sub-committee

[\*In determining that a quorum for a joint meeting is present, a member who sits on more than one of the committees / sub - committees involved shall be counted towards each individual quorum.]

- 15.2 Subject to Rule 15.4, there must be a quorum within fifteen minutes of the scheduled start time of a meeting, otherwise it cannot take place.
- 15.3 If, during the course of a meeting, the number of members present falls below the quorum the meeting cannot continue and any outstanding business will be carried forward to the next meeting.



## COUNCIL PROCEDURE RULES

- 15.4 The City Solicitor (or the City Solicitor's representative) may determine, with the agreement of the members present, that the deadline in Rule 15.2 should be extended by a further period (not exceeding 45 minutes) provided that
- (a) there is a reasonable expectation that a quorum could be achieved by extending the deadline, and
  - (b) failure to determine the matter on the day of the meeting would cause serious prejudice or cause serious inconvenience to parties affected.

### 16. Minutes of Meetings

- 16.1 The City Solicitor will prepare the minutes of every meeting.
- 16.2 \*\*\*The minutes will be submitted for approval and signature as a correct record at the following meeting, unless that meeting is an extraordinary meeting in which case they may be submitted to the next ordinary meeting.
- 16.3 \*\*\*The names of members present at a meeting will be recorded in the minutes.

### 17. Committee Minutes/Reports Submitted to Council

- 17.1 When moving approval of committee minutes, a chair may: -
- a) Correct any factual inaccuracy; and / or,
  - b) Following an explanation, seek the consent of Council to take back any item for reconsideration by the committee.

There will be no discussion.

- 17.2 \*\*\*If a chair declares a prejudicial interest in part of a committee's minutes, s/he should move them with the exception of that part.
- 17.3 A chair may move part of a committee's minutes, s/he may move them with the exception of any item.
- 17.4 Any excepted items must be moved, after the other proceedings have been dealt with, by another member of the committee who was present at that meeting.

### 18. Amendments to be Moved at Council

- 18.1 Subject to Rules 18.2, 18.3, 18.4, 18.5 and 18.6 amendments to be moved at Council must be in writing and be received by the Chief Executive at least 30 minutes before the meeting.

## COUNCIL PROCEDURE RULES

- 18.2 Amendments to items of urgent business circulated on the day of the meeting must be in writing and received by the Chief Executive within 30 minutes of the item being circulated to members.
- 18.3 When the Executive makes recommendations to the Council in relation to calculating the budget requirement and setting the Council tax, any amendments to those recommendations which affect those calculations or the level of Council tax must be submitted in writing and received by the Chief Executive by 4.00 p.m. on the seventh day after the meeting of the Executive. Any such amendment, together with the recommendations of the Executive, will be referred to the Resources and Governance Overview and Scrutiny Committee which will report to the Council meeting in March at which the Council calculates the budget and sets the Council Tax ("the Budget Council").
- 18.4 Nothing in Rule 18.3 will prevent –
- a) Members moving amendments at Budget Council in accordance with Rule 18.1, or
  - b) the Executive reconvening and revising their recommendations to Budget Council,
- where such amendments or revised recommendations arise out of the proceedings of the overview and scrutiny committee, nor will anything in Rule 18.3 require a further meeting of the overview and scrutiny committee in such circumstances.
- 18.5 Amendments to the Constitution of the Council (other than amendments proposed by the Monitoring Officer pursuant to Article 15 of Part 2 of this Constitution) must be submitted in writing and received by the Chief Executive not later than 12.00 noon on the ninth day preceding the Council meeting (e.g. where the Council meeting is held on a Wednesday, the Monday in the week preceding the meeting) unless that day is not a working day in which case the amendment must be received by noon on the first working day thereafter.
- 18.6 Where the Monitoring Officer has submitted proposals to change the Constitution pursuant to Article 15 of Part 2 of this Constitution, nothing in Rule 18.5 shall prevent members from: -
- a) disapproving the proposed changes; or
  - b) Moving amendments to the proposed changes at Council in accordance with Rule 18.1.
- 18.7 Amendments must be submitted on the amendment form available from the Chief Executive and: -

## COUNCIL PROCEDURE RULES

- a) Must only refer to matters to be considered at the meeting.
- b) Must identify the item to be amended and the name of the mover and seconder.
- c) Must be relevant to the item.
- d) May refer the item back to the Executive or, as appropriate, to a committee or sub-committee, for further consideration.
- e) May add words.
- f) May delete words or, where more than one item is moved at the same time, may delete any item.
- g) May not be made to decisions of a committee or sub-committee under delegated powers.

18.8 Copies of every amendment received will be available to members at the meeting and in the public gallery. Where they are so available they need not be read out.

18.9 The Lord Mayor may allow two or more amendments to be debated together if it will help the business to be dealt with more efficiently.

18.10 If there is more than one amendment on any item, they will be dealt with in the order in which they were received or in an order determined by the Lord Mayor as being conducive to the efficient conduct of business.

18.11 An amendment must be moved by the member who submitted it.

18.12 The mover of a motion may not submit an amendment to their own motion.

### **19. Motions Without Notice at Council**

19.1 The following motions may be moved without notice. There will be no discussion: -

- a) To appoint a member to chair the meeting.
- b) To approve or correct the minutes of the previous meeting.
- c) To change the order of business on the agenda.
- d) To combine debates on items on the agenda.
- e) To withdraw an item from the agenda.

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- f) To move committee minutes.
- g) To withdraw any motion or amendment (by the mover).
- h) To not hear a member further.
- i) To require a member to leave the meeting.
- j) To extend the time limit on speeches.
- k) To suspend particular Rules. (see Rule 2.1)
- l) To exclude the public during consideration of confidential business.
- m) To go to the next business. If seconded, the vote will then be taken. If carried, the item under discussion will be treated as withdrawn.
- n) To put the question immediately to a vote. If seconded, the vote will then be taken. If carried, the mover of the original motion shall have a right of reply.
- o) To adjourn the debate. If seconded, the vote will then be taken, and if carried, there are no rights of reply. On resuming the debate, the member who moved the original motion will have the right to speak first.
- p) To adjourn the meeting. If seconded and before taking the vote, the Lord Mayor will deal with any unopposed business (i.e. against which no amendment has been notified in accordance with Rules 18.1 to 18.3). If the motion to adjourn is carried, there will be no right of reply allowed.

(NOTE: During the course of a debate motions (k) to (p) may only be moved by members who have not already spoken in the debate).

19.2 A member may not move any of the motions in Rule 19.1 more than once at a meeting. If a motion under that Rule 19.1 is not carried, it cannot be moved again on the same item unless the Lord Mayor decides the circumstances have changed significantly.

### **20. Submission of Motions and Amendments**

- 20.1 Motions and amendments must relate to items included on the agenda or accepted by the meeting as urgent business.
- 20.2 An amendment cannot be considered if it is inconsistent with an amendment previously adopted or repeats an amendment previously rejected.
- 20.3 The mover of a motion may, with the consent of the mover of an amendment, incorporate an amendment into the motion. If this

## COUNCIL PROCEDURE RULES

happens, the mover of the amendment will have the same speaking rights as if the amendment had been debated separately.

- 20.4 Motions and amendments cannot be debated until they have been moved and seconded.
- 20.5 Subject to Rule 18.9 and Rule 19.1(d) only one amendment may be moved at a time. No further amendments can be moved until the previous amendment has been dealt with.
- 20.6 Each amendment must be voted on separately.
- 20.7 If an amendment is carried, the amended motion becomes the substantive motion to which further amendments may be moved.
- 20.8 If an amendment is lost, other amendments may be moved to the original motion.
- 20.9 The mover may withdraw an amendment at any time in which case no debate will be allowed.
- 20.10 A member may only move one amendment on an item.

### **21. Speeches at Council**

- 21.1 Speeches on motions and amendments will be in the following order: -
  - a) Mover then seconder of a motion.
  - b) Mover then seconder of any amendment.
  - c) Any other member including those who have reserved the right to speak.
  - d) Right of reply of mover of the original motion.
- 21.2 The right of reply is to enable points made in the debate to be answered. New matters must not be introduced.
- 21.3 A member moving a motion may nominate another member (with the exception of the mover of a defeated amendment) to exercise the right of reply.
- 21.4 A member may only speak once on a motion or an amendment except:-
  - a) When exercising a right of reply.
  - b) When raising a point of order. (This is a request for the Lord Mayor to rule on an alleged irregularity in either the constitution or conduct of the meeting). In these circumstances:-

## COUNCIL PROCEDURE RULES

- i) A point of order must be raised as soon as it arises.
  - ii) The member must refer to both the Rule in question and how it has been broken.
  - iii) A ruling must be given by the Lord Mayor before the debate continues.
  - iv) There will be no discussion on the ruling.
- c) When giving a personal explanation (i.e. when a member believes that a later speaker has misunderstood or misquoted him / her). In these circumstances:-
- i) The member must ask the permission of the Lord Mayor to interrupt the speaker.
  - ii) There will be no discussion on the Lord Mayor's decision.
- d) When exercising a reserved right to speak.
- 21.5 The right to speak later in the debate must be reserved when seconding a motion or amendment.
- 21.6 This right is subject to the member being called upon by the Lord Mayor to speak.
- 21.7 A member may only speak about the matter under debate except when raising a point of order or giving a personal explanation.
- 21.8 Subject to Rule 21.9, speeches must be no longer than six minutes although they may be extended by five minutes if the meeting agrees. The meeting may also change these time limits.
- 21.9 Speeches by the member of the Cabinet for Finance and Human Resources and the finance spokesperson of the opposition group(s) at the meeting referred to in Rule 10.4 to calculate the budget requirement and set Council Tax levels shall be up to 20 minutes duration, but all other speeches shall be subject to the limitations in Rule 21.8 above.
- 21.10 Members should address the meeting through the Lord Mayor.

## 22. Voting

- 22.1 Members will vote by voice or by show of hands, or by ballot, at the discretion of the Lord Mayor. Where there is a vote by show of hands, all members wishing to vote “for” the motion or amendment should vote before the votes “against” are taken, including the Lord Mayor using his/ her first (but not casting) vote.

## COUNCIL PROCEDURE RULES

22.2 At Council: -

- a) Ten members may demand before the vote is taken that the names of those voting be recorded in the minutes.
- b) Members may not vote unless they are in the meeting when the matter is put to the vote.

22.3 \*\*\*A member may demand that his / her vote be recorded in the minutes.

22.4 \*\*\*Subject to the provisions of any enactment and Rule 22.7 all questions will be decided by a majority of members present and voting.

22.5 If there are more than two people nominated for any one position to be filled and there is not a clear majority in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

22.6 \*\*\*Where there is an equality of votes, the Lord Mayor may exercise a second or casting vote.

22.7 \*\*\*A decision to promote or oppose a local or personal Bill in Parliament under Section 239 of the Local Government Act 1972 or to [apply for or] oppose an order under the Transport and Works Act 1992 will require to be passed by a majority of the whole number of the Council (i.e. 49 affirmative votes are required).

### **23. Questions at Council – General**

23.1 A member may submit a question to the Leader of the Council or a member of the cabinet in respect of reports of the Executive submitted to Council.

23.2 Subject to Rule 23.4, a member of the Council may ask the Leader of the Council, a member of the Executive, or the chair of a committee, a question on any matter in relation to which the Council has powers or duties, or which affects the interests of Manchester or its residents.

23.3 Subject to Rule 23.4, a member of the committee or sub committee may ask the chair of it a question on any matter in relation to which the Council has powers or duties, or which affects Manchester, and which falls within the terms of reference of that committee or sub committee.

23.4 A member may only ask a question under Rules 23.2 or 23.3 if either: -

- a) they have given at least 48 hours notice in writing of the question to the Chief Executive; or

## COUNCIL PROCEDURE RULES

- b) the question relates to urgent matters, they have the consent of the person to whom the question is to be put and the content of the question is given to the Chief Executive at least two hours prior to the start of the meeting.

23.5 An answer may take the form of: -

- a) a direct oral answer;
- b) where the desired information is contained in a publication of the Council or other published work, a reference to that publication; or
- c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

23.6 A member asking a question under Rule 23.2 or 23.3 may ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

23.7 The submission of a question under Rule 23.2 or 23.3 shall not restrict the right of a member to propose a motion or amendment upon the minutes.

### **24. Questions at Council about Joint Authorities or Joint Committees**

24.1 A member may put a written question to the nominated spokesperson of the following joint authorities and joint committees about any matter which relates to the work of that authority: -

- a) The Greater Manchester Combined Authority.
- b) The Greater Manchester Fire and Civil Defence Authority.
- c) The Greater Manchester Police Authority.
- d) The Greater Manchester Waste Disposal Authority.
- e) The Transport for Greater Manchester Committee
- f) The Greater Manchester Police and Crime Panel.

24.2 The nominated spokesperson must receive the question (and a copy must also be given to the Chief Executive) no later than 48 hours prior to the meeting.



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24.3 The question will be put, the nominated spokesperson will present his/her reply, there may then be a debate, following which the nominated spokesperson will have a right of reply.

### **25. Previous Decisions and Motions (Six Months' Rule)**

25.1 Decisions of the Council made within the last six months may not be changed, unless this Rule is suspended. (see Rule 2.1)

25.2 A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved, unless this Rule is suspended.

### **26. Conduct at Meetings**

26.1 If the Chair calls the meeting to order members shall be silent.

26.2 If a member behaves improperly or offensively or deliberately obstructs business, the Lord Mayor may direct the member to be silent.

26.3 If the member continues such behaviour the Lord Mayor may direct either that the member leave the meeting or that the meeting be adjourned for a specified period.

26.4 If a member of the public interrupts proceedings, the Lord Mayor will warn the person concerned. If the interruption continues, the Lord Mayor may order his / her removal from the meeting.

26.5 If there is a disturbance which interrupts proceedings, or makes business impossible, the Lord Mayor may all for the room to be cleared of those making the disturbance, and may adjourn the meeting for as long as necessary.

26.6 Members of the Council, officers and members of the public shall not permit mobile telephones, pagers, or other such devices with audible operating signals, to be brought into Council, Committee or sub committee meetings unless the audible call function is muted for the duration of the meeting.

### **27. Duration of Council Meetings**

27.1 Unopposed business may be taken if the meeting continues beyond 3.00pm, or such other time as the Lord Mayor may decide.

27.2 Unopposed business is business on which no amendment has been moved.

### **28. Recording and Filming of Meetings**

28.1 Recording and filming may take place with the consent of the meeting.

**29. Notification and Declaration of Interests**

29.1 In this Rule and, where relevant, Rule 30 –

“the Code” means the Conduct of Conduct for Members adopted by the Council under Section 28 of the Localism Act 2011;

“disclosable pecuniary interest” means an interest specified in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and set out in paragraph 8 of the Code;

“member of the Council” includes a co-opted member.

“personal interest” for the purpose of Rule 29.2 means an interest described in paragraph 11 of the Code, and for the purpose of Rule 29.3 and Rule 30 means an interest described in paragraph 11 or 12.2 of the Code;

“prejudicial interest” means an interest described in paragraph 13.1 of the Code;

29.2 Members of the Council must –

- (a) within 28 days of their election or appointment to office, or
- (b) in the case of members in office on 11 July 2012, within 2 months of the adoption of the Code,

notify the Monitoring Officer in writing of the details of their disclosable pecuniary interests (including, where required, interests of their partner) and their personal interests.

29.3 Where a member of the Council is present at a meeting and has a disclosable pecuniary interest or, subject to paragraphs 12.4 to 12.6 of the Code, a personal interest in any matter to be considered at the meeting, they must disclose the interest to the meeting.

**30. Non-participation and withdrawal in the case of Disclosable Pecuniary Interests and Prejudicial Interests.**

30.1 Where a member of the Council has a disclosable pecuniary interest or, subject to paragraphs 13.3 and 13.4 of the Code, a prejudicial interest in any matter being considered at a meeting, they must not participate or vote on the matter and must withdraw from the room of the meeting while the matter is being considered.

## **Section B**

# **Access To Information Procedure Rules**

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# ACCESS TO INFORMATION PROCEDURE RULES

## 1. SCOPE

- 1.1 Except as otherwise indicated, Rules 3 - 13 and Rule 25 apply to all meetings of the Council, overview and scrutiny committees, area committees, the regulatory and other non-executive committees and meetings of the Executive and committees of the Executive (together called meetings). Rules 15 - 24 apply exclusively to executive decisions, meetings of the Executive and documents in the possession or under the control of the executive
- 1.2 These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

## 2. DEFINITIONS

In these Rules: –

- (a) “decision-maker” means the decision-making body by which, or the individual by whom, a decision is taken.
- (b) “the decision-making body” includes the executive or a committee of the executive
- (c) “executive decision” means a decision made or to be made by a decision-maker in connection with the discharge of a function which is the responsibility of the executive
- (d) “key decision” has the meaning given in Rule 15
- (e) “political adviser or assistant” means a person appointed pursuant to section 9 of the Local Government and Housing Act 1989
- (f) “private meeting” means a meeting, or part of a meeting, during which the public are excluded under Rule 10
- (g) “public meeting” means a meeting which is open to the public in accordance with Rule 3

## 3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions in Rule 10.

## 4. NOTICES OF MEETINGS

- 4.1 The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Town Hall and on the Council's website.

## **ACCESS TO INFORMATION PROCEDURE RULES**

- 4.2 Where the meeting is convened at shorter notice, notice will be posted at the time the meeting is convened.

### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

- 5.1 Subject to Rule 11 a copy of the agenda and any report for a meeting will be available for public inspection at the offices of the Council and on the Council's website.
- 5.2 Any document which is required by Rule 5.1 to be to public inspection must be available for at least 5 clear days before the meeting except that -
- (a) where the meeting is convened at shorter notice, a copy of the agenda and associated reports must be available for inspection when the meeting is convened; and
  - (b) where an item which would be available for public inspection is added to the agenda, copies of the revised agenda and any report relating to the item must be available for inspection when the item is added to the agenda.

### **6. SUPPLY OF COPIES**

- 6.1 The Council will supply copies of:
- (a) any agenda and reports which are open to public inspection;
  - (b) any further statements or particulars, if any, as are necessary to indicate the nature of the items in the agenda; and
  - (c) if the City Solicitor thinks fit, copies of any other documents supplied to councillors in connection with an item;
- to any person (including any newspaper) on payment of a charge for postage, copying and any other costs.
- 6.2 A reasonable number of copies of the agenda and reports for the public part of the meeting will be available for the use of members of the public present at the meeting.
- 6.3 The Council will also supply copies of documents available for public inspection under Rule 7 and Rule 8.2 to any person (including any newspaper) on payment of a charge for postage, copying or any other costs.

### **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

## **ACCESS TO INFORMATION PROCEDURE RULES**

- 7.1 The Council will make available at the Council's offices and on the Council's website as soon as reasonably practicable after a meeting copies of the following: -
- (a) the minutes of the meeting [and records of decisions taken, together with reasons, at meetings of the executive], excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
  - (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
  - (c) the agenda for the meeting; and
  - (d) reports relating to items when the meeting was open to the public.
- 7.2 The above documents will be retained by the Council and be open to inspection for six years after the meeting.

### **8. BACKGROUND PAPERS**

#### **8.1 List of background papers**

The relevant Chief Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion: -

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of a political advisor.

#### **8.2 Public inspection of background papers**

The Council will make available for public inspection at the Council's offices and (in the case of executive documents) on the Council's website one copy of each of the documents on the list of background papers. Such papers will be available from the time the report (to which they are background papers) is available until four years after the date of the meeting.

### **9. SUMMARY OF PUBLIC'S RIGHTS**

## ACCESS TO INFORMATION PROCEDURE RULES

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and be available to the public at the Town Hall.

### 10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

#### 10.1 Confidential information - requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

#### 10.2 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by reason of a Court Order or any enactment.

#### 10.3 Exempt information - discretion to exclude public

The public may be excluded from meetings by a resolution passed by the meeting whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

#### 10.4 Meaning of exempt information

(a) Exempt information means information falling within the following 7 descriptions (subject to any qualifications).

	<b>Description</b>	<b>Qualification</b>
1.	Information relating to any individual	Information within paragraph 1 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
2.	Information which is likely to reveal the identity of an individual.	Information within paragraph 2 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information within paragraph 3 is not exempt information if it is required to be registered under- (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts



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		<p>1965 to 1978;            (e) the Building Societies Act 1986; or            (f) the Charities Act 1993.</p> <p>Subject to the above, Information within paragraph 3 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	Information within paragraph 4 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information within paragraph 5 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
6	Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	Information within paragraph 6 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Information within paragraph 7 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

10.5 A member or members of the public may be excluded from a public meeting by use of a lawful power in order to maintain orderly conduct or prevent misbehaviour at a meeting.

### 11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

11.1 If the City Solicitor thinks fit, the Council may exclude access by the public to the whole or part of any reports which in his or her opinion

## **ACCESS TO INFORMATION PROCEDURE RULES**

relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. .

- 11.2 Where the whole or any part of a report is not available for public inspection by virtue of Rule 11.1 -
- (a) every copy of the whole report or part of the report must be marked "Not for Publication" and
  - (b) there must be stated on every copy of the report -
    - (i) that it contains confidential information; or
    - (ii) by reference to Schedule 12A of the Local Government Act 1972, the description of the exempt information by virtue of which the public are likely to be excluded during consideration of the item.

### **12. BUSINESS CONTAINING EXEMPT INFORMATION**

- 12.1 A member of the public may request the chief officer who wrote a report to be considered at any meeting of the Council, its Committees or the Executive to:-
- (a) recommend that an item of business containing exempt information should be taken in public; and / or,
  - (b) allow him / her to inspect the report or any background document to a report.
- 12.2 Such a request must be made -
- (a) in the case of the meeting of the Executive or committee of the Executive where notice has been published under Rule 20.3, at least 6 clear days before the meeting; and
  - (b) in any other case, at least 48 hours before the meeting.
- 12.3 If such a request is refused, the chief officer must give a reason for the decision together with details of the appeals procedure under Rule 13.1
- 12.4 A decision by a chief officer under Rule 12.2 will remain valid unless altered on appeal to the meeting which is to consider the item concerned.

### **13. PUBLIC RIGHTS OF APPEAL**

- 13.1 The procedure for appealing against a chief officer's decision in accordance with Rule 12.2 is as follows: -

## **ACCESS TO INFORMATION PROCEDURE RULES**

- (a) The appellant must write to the Chief Executive giving details of the item concerned together with the reason (s) for his / her request at least 24 hours before the meeting in question. The time of receipt of the appeal must be recorded as any received after this time will be invalid.
- (b) The appeal will be dealt with in private as the first item on the agenda.
- (c) Initially, only the chief officer (or representative) who refused the original request, the Chief Executive's representative and the members concerned may be present.
- (d) The chief officer will report the matter to the meeting giving his/her reasons for the decision and members will be allowed to ask questions.
- (e) The appellant will then be called into the meeting and the chair will summarise the reasons given for the refusal.
- (f) The appellant will give his / her reason (s) for the request and members will be allowed to ask questions of the appellant and the chief officer but having regard to the confidentiality of the item.
- (g) Both parties will withdraw and the meeting will then consider and determine the appeal.

13.2 Where an appeal relates to the inspection of an exempt document and is not dealt with under Rule 13.1 (being made either after the meeting in question or less than 2 hours before), the following procedural timetable will apply: -

- (a) The appellant must submit the appeal in writing to the Chief Executive within 10 working days of the refusal by the chief officer;
- (b) The relevant body will determine the appeal within 8 weeks of its receipt.

### **14. APPLICATION OF RULES TO THE EXECUTIVE**

Rules 15 - 24 apply exclusively to executive decisions, meetings of the Executive and committees of the executive, and documents in the possession or under the control of the executive. Rules 3 - 13 and 25 also apply to meetings of the Executive and its committees.

### **15. KEY DECISIONS**

15.1 A "key decision" means an executive decision which is likely -

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- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority.

15.2 For the purposes of (a) above significant expenditure or savings are expenditure or savings (including the receipt or loss of income or capital receipts in excess of the lesser of £500,000 or (provided that it is not less than £50,000) 10% of the gross operating expenditure for any budget heading in the published Revenue Budget Book provided that the following decisions will not be key decisions, by virtue only of (a) above, whatever the level of expenditure or savings involved:

- (i) any decision to borrow money to meet the short term borrowing requirements of the Council, to fund the approved capital programme, to refinance maturing debt or to restructure the long term borrowing of the Council;
- (ii) any decision to invest funds in accordance with the Treasury Management Strategy approved by the Council;
- (iii) any decision implementing the business plan of any DSO/DLO with the exception of the letting of sub-contracts by the DSO/DLO with a value in excess of £250,000;
- (iv) any of the following decisions relating to the management of Council land subject to the Council obtaining best consideration: Rent reviews, release or waiver of covenants, short term leases (i.e. less than 7 years)
- (v) any decision to apply scheme-specific third party grants or contributions towards expenditure where the net cost to the City Council of the decision is below the level of significant expenditure or savings referred to above;
- (vi) the settlement of any actual or threatened legal proceedings in the interests of the Council;
- (vii) the acceptance of tenders for contracts wholly or mainly involving capital expenditure where the City Treasurer in consultation with the Executive Member for Finance and Human Resources, has previously issued formal capital expenditure approval for the scheme.

## 16. PUBLICITY AND PROCEDURE IN CONNECTION WITH KEY DECISIONS

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- 16.1 Subject to Rule 17 (General Exception) and Rule 18 (Special Urgency), where a decision-maker intends to make a key decision, that decision must not be made unless at least 28 clear days before it is made -
- (a) a document is published containing the information set out in Rule 16.2, and
  - (b) that document is made available at the offices of the Council and published on the Council's website.
- 16.2 The document published under rule 16.1 must state -
- (a) that a key decision is to be made on behalf of the Council
  - (b) the matter in respect of which the decision is to be made
  - (c) where the decision-maker is an individual, that individual's name and title and, where the decision-maker is a body, its name and a list of its members
  - (d) the date on which, or the period within which, the decision is to be made
  - (e) a list of documents submitted to the decision-maker for consideration in respect of the matter
  - (f) the address from which, subject to any prohibition or restriction on their disclosure, copies or extracts of any document listed are available
  - (g) that other relevant documents may be submitted to the decision-maker; and
  - (h) the procedure for requesting details of those documents (if any) as they become available
- 16.3 The document referred to above must not contain any confidential or exempt information or particulars of the advice of a political adviser or assistant, but should contain particulars of the matter to be decided

### 17. GENERAL EXCEPTION

- 17.1 Subject to Rule 18 (Special Urgency), where the publication of the intention to make a key decision under Rule 16 is impracticable, the decision may still be made but only if -
- (a) the City Solicitor has informed the chair of the relevant overview and scrutiny committee or if there is no such person, each member of that committee by notice in writing, of the matter about which the decision is to be made;

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- (b) the City Solicitor has made a copy of that notice available to the public at the offices of the Council, and published it on the Council's website; and
  - (c) at least 5 clear days have elapsed since the City Solicitor complied with (a) and (b).
- 17.2 As soon as reasonably practicable after the City Solicitor has complied with Rule 16.1 (a) and (b), he or she must make available at the Council's offices a notice setting out the reasons why compliance with Rule 16 is impracticable and publish that notice on the Council's website

### 18. SPECIAL URGENCY

- 18.1. Where the date by which a key decision must be made, makes compliance with Rule 17 impracticable, the decision may only be made where the decision-maker may obtain agreement from -
- (a) the Chair of the relevant scrutiny committee; or
  - (b) if there is no such person, or if the chair is unable to act, the Lord Mayor; or
  - (c) where there is no chair of the relevant scrutiny committee or Lord Mayor, the Deputy Lord Mayor,

that the making of the decision is urgent and cannot reasonably be deferred.

- 18.2 As soon as reasonably practicable after the decision-maker has obtained such agreement under Rule 18.1, the decision-maker must make available at the offices of the Council a notice setting out the reasons that the making of this decision is urgent and cannot reasonably be deferred and publish that notice on the Council's website.

### 19. REPORTS TO COUNCIL

- 19.1 When an overview and scrutiny committee can require a report

Where an executive decision has been made and -

- (a) was not treated as a key decision, and
- (b) a relevant scrutiny committee are of the opinion that the decision should have been treated as a key decision

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that the scrutiny committee may require the Executive to submit a report to Council within such reasonable period as the committee may specify [which shall normally be the next scheduled meeting of the Council]

### 19.2 Executive's Report to Council

A report under Rule 19.1 must include details of -

- (a) the decision and the reasons for the decision;
- (b) the decision-maker by whom which the decision was made; and
- (c) if the Executive are of the opinion that the decision was not a key decision, the reasons for that opinion

### 19.3 Reports on special urgency decisions

The Leader or the City Solicitor will submit reports to the Council on the executive decisions taken in the circumstances set out in Rule 18 (special urgency) in the preceding cycle. The report will include the particulars of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## 20 PROCEDURES PRIOR TO PRIVATE MEETINGS

- 20.1 The Executive and any committee of the Executive ("the decision-making body") must meet in public except to the extent that the public are excluded under Rule 10
- 20.2 A "private meeting" means a meeting, or part of a meeting, of the Executive during which the public are excluded
- 20.3 At least 28 days before a private meeting, the decision-making body or the City Solicitor acting on its behalf, must make available at the offices of the Council and publish on the Council's website a notice of its intention to hold the meeting or part of the meeting in private and a statement of the reasons for the meeting to be held in private
- 20.4 At least 5 clear days before a private meeting, the decision-making body or the City Solicitor acting on its behalf, must make available at the offices of the Council and publish on the Council's website a notice which must include -
  - (a) a statement of the reasons for the meeting to be held in private
  - (b) details of any representations received by the decision-making body about why the meeting should be open to the public, and
  - (c) a statement of its response to any such representations

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20.5 Where the date by which a meeting must be held makes compliance with these procedures impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from -

- (a) the chair of the relevant scrutiny committee; or
- (b) if there is no such person, or if the chair is unable to act, the Lord Mayor, or
- (c) where there is no chair or Lord Mayor, the Deputy Lord Mayor

that the meeting is urgent and cannot reasonably be deferred.

20.6 As soon as reasonably practicable after the decision-making body has obtained agreement under Rule 20.5 to hold a private meeting, it must make available at the offices of the Council, and publish on the Council's website, a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

### **21 RECORDING OF EXECUTIVE DECISIONS MADE AT MEETINGS**

21.1 As soon as reasonably practicable after any meeting of the Executive, a committee of the Executive at which an executive decision was made, the City Solicitor must ensure that a written statement is produced for every executive decision made which includes the following information -

- (a) a record of the decision and the date it was made;
- (b) a record of the reasons for the decisions;
- (c) details of any alternative options considered and rejected
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted [by the Head of Paid Service]

### **22 RECORDING OF EXECUTIVE DECISIONS MADE BY INDIVIDUALS**

22.1 As soon as reasonably practicable after an individual member has made an executive decision, that member must produce or instruct the City Solicitor to produce a written statement of that executive decision which includes the information specified in Rule 22.3



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- 22.2 As soon as reasonably practicable after an officer has made a decision which is an executive decision, the officer must produce a written statement including the information specified in Rule 22.3.
- 22.3 The statement referred to in Rule 22.1 and 22.2 should include -
- (a) a record of the decision including the date it was made;
  - (b) a record of the reasons for the decision
  - (c) details of any alternative options considered and rejected when making the decision
  - (d) a record of any conflict of interest declared by any executive member who is consulted by the member of officer which relates to the decision; and
  - (e) in respect of any declared conflict of interest, a note of dispensation [granted by the Head of Paid Service].
- 22.4 Any written statement produced in accordance with this Rule, and any report considered by the individual member or officer relevant to a decision will be available for public inspection at the Council's offices and on the Council's website.

### **23. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS**

#### 23.1 Rights to copies

Subject to Rule 23.3 below, a member of an overview and scrutiny committee will be entitled to copies of any document which is in the possession or control of the executive and which contains material relating to: -

- (a) any business transacted at a executive or its committees; or
  - (b) any decision taken by an individual member of the executive; or
  - (c) any decision made by an officer in accordance with executive arrangements.
- 23.2 Where a member of an overview and scrutiny committee requests a document under Rule 23.1, the Executive must provide the document as soon as reasonably practicable and in any case no later than 10 clear working days after the Executive receives the request.

#### 23.3 Limit on rights

A member of an overview and scrutiny committee will not be entitled to:-

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- (a) any document that is in draft form;
- (b) any document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or any review contained in the committee's programme of work; or
- (c) any document containing the advice of a political adviser or assistant.

23.4 Where the Executive determines that a member of a scrutiny committee is not entitled to a copy of a document requested, it must provide the scrutiny committee with a written statement setting out its reasons for that decision.

### 24. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

24.1 Subject to Rule 24.3, any document which -

- (a) is in the possession or under the control of the Executive, and
- (b) contains material relating to any business to be transacted at a public meeting,

must be available for inspection by any member of the Council for at least 5 clear days before the meeting except that -

- (i) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
- (ii) where an item is added to the agenda at shorter notice, such a document must be available when the item is added to the agenda

24.2 Subject to Rule 24.3, any document which is in the possession or under the control of the Executive, and contains material relating to -

- (a) any business transacted at a private meeting;
- (b) any decision made by an individual member in accordance with executive arrangements, or
- (c) any decision made by an officer in accordance with executive arrangements,

must be available for inspection by any member of the Council when the meeting concludes or, where an executive decision is made by an individual member or officer, immediately after the decision has been

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made, and in any event no later than 24 hours after the conclusion of the meeting or the decision being made.

24.3 Rules 24.1 and 24.2 do not require a document to be available for inspection if -

- (a) it contains advice provided by a political adviser or assistant, or
- (b) it appears to the City Solicitor to disclose exempt information under paragraphs 1, 2, 4, 5 and 7 of the Schedule 12A to the Local Government Act 1972 (see Rule 10.4)
- (c) it appears to the City Solicitor to disclose exempt information under paragraphs 3 of Schedule 12A, but only to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the cause of negotiations for a contract.

*[NB: documents containing exempt information by virtue of paragraph 3 (where 24.3 (c) does not apply) and paragraph 6 of Schedule 12A will be available under this Rule]*

24.4 The above rights are in addition to any other right that a member of a local authority may have

### **25. RIGHTS OF MEMBERS - "NEED TO KNOW"**

25.1 In addition, Members will be entitled to access to documents and to attend the confidential part of meetings of Committees and sub-committees and public meetings of the executive (even though they are not a member of those bodies) where they can demonstrate a "need to know" in order to perform their duties as Members.

25.2 Subject to Rule 25.3 below, the circumstances where a "need to know" will be treated as arising will include -

- (a) Where the matter relates to a sub-committee of a committee of which the Member is a member;
- (b) Where the matter relates to a committee of the executive where the Member is an executive member;
- (c) Where the matter is within the remit of an overview and scrutiny committee of which the Member is a member;
- (d) Where the full Council is required to approve the decisions or recommendations of committees, sub-committees or the executive;

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- (e) Where the matter has been delegated to a committee or sub-committee, but significantly affects the reputation of the whole Council;
  - (f) Where the matter relates specifically to a Member's own ward;
  - (g) Where a member is minded to sign a requisition under Council Procedure Rule 9 in relation to the matter.
- 25.3 There will not be a "need to know" if a Member is acting in bad faith or in pursuance of a personal pecuniary or non-pecuniary interest or merely out of curiosity.
- 25.4 A Member wishing to see confidential or exempt Council, Committee, sub-committee or executive documents or to attend the confidential part of a meeting should make written application to the Chief Executive, setting out the reasons why the document and/or attendance at the meeting is necessary in order to enable the Member properly to perform his/her duties.
- 25.5 Where access to documents or a meeting is refused by the Chief Executive, there will be a right of appeal to the relevant body.
- 25.6 Where a matter or document is confidential or exempt, Members exercising the above rights will be asked to sign an agreement to preserve the confidentiality of the information.

## **Section C**

# **Budget and Policy Framework Procedure Rules**

**SECTION C: BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

**CONTENTS**

- Rule 1. The Framework for Executive Decisions**
- Rule 2. Process for Developing Framework**
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- Rule 5. Decisions Outside the Budget or Policy Framework**
- Rule 6. Urgent Decisions Outside the Policy Framework**
- Rule 7. Virement and In-Year Changes to the Budget**
- Rule 8. In-Year Changes to Policy Framework**
- Rule 9. Call-in of Decisions Outside the Budget or Policy Framework**

**1. The framework for executive decisions**

- 1.1 The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4 of Part 2 of this Constitution. Once a budget or a policy framework is in place, it will be the responsibility of the Executive to implement it.

**2. Process for developing the framework**

- 2.1 The process by which the budget and policy framework shall be developed is: -
- 2.2 The Executive will publicise *through the forward plan* and other methods a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals.
- 2.3 All Members of the Council, including the chairs of overview and scrutiny committees will also be notified. The consultation period shall in each instance be not less than 4 weeks, unless the requirements of any statutory timetable / deadline make this impracticable.
- 2.4 At the end of that period, the Executive will then draw up draft proposals having regard to the responses to that consultation. The overview and scrutiny committees have responsibility for fixing their own work programme, and will need to take into account the Forward Plan in doing so. As part of its consideration of the proposals it is open to the overview and scrutiny committee to consult, investigate, research or report in detail with policy recommendations. The Executive will take any response from an overview and scrutiny committee into account in drawing up draft proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive's response.
- 2.5 Once the Executive has approved the draft proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision.

**3. Procedure for Conflict Resolution - Plans and Strategies**

- 3.1 This procedure applies in relation to those plans and strategies forming the policy framework of the Council as set out on Article 4.01(a) of Part 2 of this Constitution and to any plan/strategy for the control of the Council's borrowing and capital expenditure. Paragraphs 3.2 to 3.5 below have been incorporated into these Rules as required by the Local Authorities (Standing Orders) (England) Regulations 2001.

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- 3.2 Where the executive has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph 3.3
- 3.3 Subject to 3.6 below, before the Council: -
- (a) amends the draft plan or strategy;
  - (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - (c) adopts (with or without modification) the plan or strategy,
- it must inform the executive leader of any objections which it has to the draft plan or strategy and must give to him/her instructions requiring the executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
- 3.4 Where the Council gives instructions in accordance with paragraph 3.3, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may –
- (a) submit a revision of the draft plan or strategy as amended by the executive (the “revised draft plan or strategy”) with the executive’s reasons for any amendments made to the draft plan or strategy, to the Council for the Council’s consideration; or
  - (b) inform the Council of any disagreement that the executive has with any of the Council’s objections and the executive’s reasons for any such disagreement.
- 3.5 When the period specified by the Council, referred to in paragraph 3.4 has expired, the Council must, when: -
- (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
  - (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
  - (c) adopting (with or without modification) the plan or strategy, take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the



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executive's reasons for those amendments, any disagreement that the executive has with any of the Council's objections and the executive's reasons for that disagreement, which the executive leader submitted to the Council, or informed the Council of, within the period specified.

- 3.6 Where an amendment to a draft plan or strategy has been submitted under Council Procedure Rule 18.1, the Leader may indicate on behalf of the Executive that s/he accepts the amendment. In these circumstances, the amendment will be regarded as incorporated in the draft strategy before Council and not (for the purposes of Rules 3.2 to 3.5 above) as an objection to it.

### **4. Procedure for Conflict Resolution - Revenue Budget**

- 4.1 This procedure applies to estimates and calculations relating to the revenue budget and Council tax. Paragraphs 4.2 to 4.5 below have been incorporated into these Rules as required by the Local Authorities (Standing Orders) (England) Regulations 2001. Those paragraphs do not apply to estimates and calculations submitted by the Executive to the Council where the estimates and calculations were drawn up by the Executive on or after 8th February in any financial year.

- 4.2 Where, before 8th February in any financial year, the Executive submits to the Council for its consideration in relation to the following financial year: -

- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 31A to 37 of the Local Government Finance Act 1992;
- (b) estimates of other amounts to be used for the purposes of such a calculation; or
- (c) estimates of such a calculation

and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in paragraph 4.3.

- 4.3 Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 4.2(a), it must inform the executive leader of any objections which it has to the executive's estimates or amounts and must give to him/her instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

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- 4.4 Where the Council gives instructions in accordance with paragraph 4.3, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may: -
- (a) submit a revision of the estimates or amounts as amended by the executive (“revised estimates or amounts”), which have been reconsidered in accordance with the Council’s requirements, with the executive’s reasons for any amendments made to the estimates or amounts, to the Council for the Council’s consideration; or
  - (b) inform the Council of any disagreement that the executive has with any of the Council’s objections and the executive’s reasons for any such disagreement.
- 4.5 When the period specified by the Council, referred to in paragraph 4.4 has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 4.2(a) take into account: -
- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - (b) the executive’s reasons for those amendments;
  - (c) any disagreements that the executive has with any of the Council’s objections, and
  - (d) the executive’s reasons for that disagreement,
- which the executive leader submitted to the Council, or informed the Council or, within the period specified.
- 4.6 Where estimates and calculations are drawn up by the Executive on or after 8th February in any financial year and are submitted to the Council for their consideration, the procedure in paragraphs 4.2 to 4.5 will not apply. In these circumstances the estimates and calculations will be submitted to the Finance Scrutiny Committee, together with amendments submitted in accordance with Council Procedure Rule 18.3. Where the Overview and Scrutiny Committee has any objection to the estimates and calculations, it will report such objections to the Council, the Leader and the Executive Member for Finance and Human Resources. The Leader and/or the Executive Member for Finance and Human Resources will report to the Council whether they agree or disagree with any objection of the Overview and Scrutiny Committee.

**5. Decisions outside the budget or policy framework**

- 5.1 Subject to the provisions of paragraph 7 and Financial Regulations in relation to the budget, and paragraphs 6 and 8 in relation to the policy framework, the Executive, [committees of the executive, individual members of the Executive and any officers discharging executive functions] may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council.
- 5.2 If the Executive, [committees of the executive, individual members of the Executive and any officers, discharging executive functions] want to make such a decision, they shall take advice from the monitoring officer and/or the chief financial officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget, and not authorised by paragraphs 7 or Financial Regulations, then the decision must be referred by that body or person to the Council for decision. If the advice of the monitoring officer is that the decision would be contrary to the policy framework and not authorised by paragraph 8, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions of paragraph 6 apply.

**6. Urgent decisions outside the policy framework**

- 6.1 The Executive, a committee of the executive, an individual member of the Executive or officers, discharging executive functions] may take a decision which is contrary to the Council's policy framework if the decision is a matter of urgency. However, the decision may only be taken if: -
- (a) either the Chief Executive, the Chief Finance Officer or the Monitoring Officer advise in writing that the legal or financial position of the Council or the interests of the Council and/or the residents of Manchester would be prejudiced if the matter were not determined before the next scheduled Council meeting, AND
  - (b) the chair of a relevant overview and scrutiny committee (or in their absence the Lord Mayor or, in the absence of both, the Deputy Lord Mayor) agrees that the decision is a matter of urgency.
- 6.2 The advice of the Chief Executive, Chief Finance Officer or Monitoring Officer and the consent of the chair of the relevant overview and scrutiny committee (or, if relevant, the Lord Mayor or Deputy Lord Mayor) to the decision being taken as a matter of urgency must be noted on the record of the decision.

- 6.3 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## 7. Virement and In-Year changes to the budget

- 7.1 Steps taken by the Executive, [a committee of the executive, an individual member of the Executive or officers, discharging executive functions] to implement Council policy shall not exceed those budgets allocated to each budget heading, subject to paragraphs 7.2 to 7.4 below.

- 7.2 Such bodies or individuals shall be entitled to vire across budget headings as follows:

(a) Capital

- A chief officer may vire capital up to £25,000 across budget headings (or, up to £100,000 with the approval of the City Treasurer, in consultation with the Executive Member for Finance and Human Resources).
- The Executive may vire capital up to £500,000 across budget headings or up to £250,000 from a revenue budget heading (including unallocated contingency) to capital.
- Any capital virement above £500,000 shall require the approval of full Council

(b) Revenue

- A chief officer may vire revenue up to £50,000 across budget headings (or, up to £100,000 with the approval of the City Treasurer).
- The Executive may vire revenue up to £250,000 across budget headings (including up to £250,000 for a particular matter from unallocated contingency).
- Any revenue virement above £250,000 shall require the approval of full Council.

- 7.3 The Executive may: -

- (a) Increase capital or revenue expenditure in-year by use of reserves (in addition to the use of reserves planned in the budget calculations), provided that such use of reserves do not exceed £2,000,000 in aggregate in a financial year and provided that the City Treasurer has certified in writing that such use of reserves would not cause the Council's overall reserves to fall below a prudent level. Any such use of reserves shall be reported to the next meeting of full Council.

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(b) Increase the capital budget provided that additional expenditure can be funded through -

- Additional external resources
- Additional capital receipts
- Additional credit approvals

7.4 The Chief Executive may exercise any of the powers of the Executive under 7.2 and 7.3, in consultation with the Leader, the Executive Member for Finance and Human Resources and the City Treasurer where the legal or financial position of the Council or the interests of the residents of Manchester would be prejudiced if the matter were not determined before the next scheduled executive meeting. The Chief Executive will report any such decision to the next meeting of the Executive.

### **8. In-year changes to policy framework**

8.1 The responsibility for agreeing the policy framework lies with the Council, and decisions by the Executive, [a committee of the executive, an individual member of the Executive or officers, discharging executive functions] must be in line with it. Subject to paragraph 6, no changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes which are necessary to ensure compliance with the law, ministerial direction or government guidance, or where the existing policy document is silent on the matter under consideration.

### **9. Call-in of decisions outside the budget or policy framework**

9.1 Where an overview and scrutiny committee is of the opinion that an Executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the monitoring officer and/or chief financial officer.

9.2 In respect of functions which are the responsibility of the Executive, the monitoring officer's report and/or chief financial officer's report shall be to the Executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the report and to prepare a report to Council in the event that the monitoring officer or the chief finance officer conclude that the decision was a departure, and to the overview and scrutiny committee if the monitoring officer or the chief finance officer conclude that the decision was not a departure.

9.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the monitoring officer and/or the chief financial officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the

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budget, the overview and scrutiny committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. At the meeting it will receive a report of the decision or proposals and the advice of the monitoring officer and/or the chief financial officer. The Council may either:

- (a) endorse a decision or proposal of the Executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way;

*Or*

- (b) amend the council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way;

*Or*

- (c) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the executive to reconsider the matter in accordance with the advice of either the monitoring officer/chief financial officer.

# **Section D**

## **Executive Procedure Rules**

# EXECUTIVE PROCEDURE RULES

## Part 4 - Section D: Executive Procedure Rules

### CONTENTS

- Rule 1.      How the Executive operates**
- Rule 2.      The Conduct of Executive Meetings**
- Rule 3.      Declaration of Interests**
- Rule 4.      Non-participation and withdrawal in the case of Disclosable  
Pecuniary Interests and Prejudicial Interests**



# EXECUTIVE PROCEDURE RULES

## 1. HOW THE EXECUTIVE OPERATES

### 1.1. Who may make executive decisions

The Leader may discharge any executive functions of the Council or he/she may provide for any executive functions of the Council to be discharged by:

- (a) the Executive as a whole;
- (b) a committee of the Executive;
- (c) an individual member of the Executive;
- (d) an officer of the authority.

### 1.2 Appointments and delegation by Leader

- (a) At the Annual Meeting of the Council, the Leader will present to the Council the names of the Members appointed to the Executive by the Leader (including the Executive Member who is appointed as the Deputy Leader) and their Portfolios.
- (b) Either at the Annual Meeting of the Council or as soon as practicable thereafter, the Leader will present to the Monitoring Officer a written record of:-
  - (i) the detailed remits of the Portfolios of the Executive Members;
  - (ii) any delegations made by the Leader in respect of the discharge of the Council's executive functions. The document presented by the leader to the Monitoring Officer will contain the following information about the discharge of the Council's executive functions in relation to the coming year:
    - The extent of authority of the Executive as a whole;
    - The extent of any authority delegated to individual Executive Members, including details of any limitation on their authority;
    - The terms of reference and constitution of such committees of the Executive as the Leader appoints and the names of Executive Members appointed to them;
    - The nature and extent of any delegation of executive functions to Area Committees, or any other authority or any joint arrangements and the names of those Executive Members appointed to any joint committee for the coming year; and

## EXECUTIVE PROCEDURE RULES

- The nature and extent of any delegation of executive functions to Council officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### 1.3 Sub-delegation of executive functions

- (a) Where the Leader delegates an executive function to the Executive then unless the leader directs otherwise, the Executive may delegate further to a committee of the Executive or to a Council officer.
- (b) Where the Leader delegates an executive function to a committee of the Executive or an individual member of the Executive then unless the leader directs otherwise, a committee of the Executive or an individual member of the Executive may delegate further to a Council officer.
- (c) Even where executive functions have been delegated under (a) or (b) above, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation.
- (d) Where the Leader seeks to withdraw a delegation from a committee of the Executive, notice will be deemed to be service on that committee of the Executive when the Leader has served it on its chair.

### 1.4 The Scheme of Delegation and executive functions

The Leader may amend the Scheme of Delegation set out in Part 3 of this Constitution insofar as it relates to executive functions at any time during the year in accordance with the procedure set out below.

- (a) Whenever the Leader wishes to make an alteration to the allocation of responsibilities for the discharge of the Council's executive functions the following procedure shall apply:
  - (i) Where the Leader wishes to delegate the discharge of an executive function that has not been previously delegated:-
    - to an officer; or
    - to the Executive; or
    - to a Committee of the Executive; or
    - to a Member of the Executive

## EXECUTIVE PROCEDURE RULES

the Leader must give written notice of the new delegation to both the person or body to whom the executive function is to be delegated and the Monitoring Officer.

The delegation of the executive function will take effect on receipt of the Leader's written notice by both of the parties listed above.

The Monitoring Officer will ensure that a record of the delegation of the executive function is entered into the Register of the Delegation of Executive Functions and will report the new delegation to council at the earliest opportunity.

(ii) Where the Leader wishes to transfer the discharge of an executive function that has been previously delegated:-

- from one officer to another officer; or
- from an officer to the Executive, a Committee of the Executive, or a Member of the Executive; or
- from the Executive to an officer, a Committee of the Executive, or a Member of the Executive; or
- from a Committee of the executive to an officer, the Executive, or a Member of the Executive; or
- from a Member of the Executive, to an officer, the Executive, or a Committee of the Executive;

then in each case the Leader must give written notice to the person or body from whom the exercise of the function is to be transferred, the person or body to whom the exercise of the executive function is to be transferred and the Monitoring Officer.

The transfer of the delegation of the executive function will take effect on receipt of the Leader's written notice by each of the parties listed above.

The Monitoring Officer will ensure that a record of the transfer of the executive function is entered into the Register of the Delegation of Executive Functions.

(iii) Where the Leader wishes to withdraw the delegation of an executive function that has been delegated to either:-

- an officer; or

## EXECUTIVE PROCEDURE RULES

- the Executive; or
- a Committee of the Executive; or
- a Member of the Executive;

and to discharge the executive function personally, the Leader must give written notice to the person or body from whom the exercise of the executive function is to be withdrawn and to the Monitoring Officer.

The withdrawal of the delegation of an executive function will take effect on receipt of the Leader's written notice by both of the parties listed above.

The Monitoring Officer will ensure that a record of the withdrawal of the executive function is entered into the Register of the Delegation of Executive Functions.

### 1.5 **Place and Time of Executive Meetings**

The Executive will meet at times to be agreed by the Leader. The Executive shall meet at the Town Hall or another location to be agreed by the Leader.

### 1.6 **Public or private meetings of the executive?**

The Access to Information Rules in Part 4 Section B of this Constitution set out the requirements covering public and private meetings. In addition to the legal requirements, consideration should also be given to the principles of decision-making set out in Article 13 of this Constitution.

### 1.7 **Quorum**

The quorum for a meeting of the executive shall be three. The quorum for a committee of the executive shall be two.

### 1.8 **How are decisions to be taken by the executive?**

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 Section B of the Constitution.
- (b) Where executive decisions are delegated to a committee of the Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

# EXECUTIVE PROCEDURE RULES

## 2. THE CONDUCT OF EXECUTIVE MEETINGS

### 2.1 Chair of Meeting

If the Leader is present, he/she will chair the meeting. In his/her absence, the Deputy Leader will chair the meeting. In the absence of both a person appointed to do so by those present will chair the meeting.

### 2.2 Attendance Rights

- (a) The right to attend is set out in the Access to Information Rules in Part 4 Section B of the Constitution. It is a matter for the Executive to determine if these rules should be widened.
- (b) In accordance with Article 7 of Part 2 of this Constitution there will be a standing invitation to members of the Standing Consultative Panel to attend public meetings of the Executive.
- (c) There will be a standing invitation to Chairs of Overview and Scrutiny Committees and Assistant Executive Members (not on the Standing Consultation Panel) to attend public meetings of the Executive, including parts of the meeting where exempt items are being discussed. Such invitees shall be entitled to receive the agenda for the meeting (including exempt matters).

### 2.3 Speaking Rights

Members of the Standing Consultative Panel will have the right to speak and make propositions, but not to vote. Other persons attending the meeting will be able to speak with the permission of the Chair.

### 2.4 Business to be Conducted

At each meeting of the Executive the following business will be conducted:

- (a) consideration of the minutes of the last meeting;
- (b) declaration of interest, if any;
- (c) matters referred to the executive (whether by an overview and scrutiny committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 Section E and Section C of this Constitution;

## EXECUTIVE PROCEDURE RULES

- (d) consideration of reports from overview and scrutiny committees; and
- (e) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 Section B of this Constitution.

### 2.5 Consultation

All reports to the Executive from any member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders (if any) and relevant overview and scrutiny committees, and the outcome of that consultation.

### 2.6 Rights to place items on the executive agenda

- (a) The Leader will decide upon the schedule for the meetings of the Executive. He/she may put on the agenda of any executive meeting any matter which he/she wishes, whether or not authority has been delegated to the Executive, a committee of it or any member or officer in respect of that matter. The Chief Executive will comply with the Leader's requests in this respect.
- (b) Any member of the Executive may require the Chief Executive to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration. If he/she receives such a request the Chief Executive will comply.
- (c) There will be a standing item on the agenda of each meeting of the Executive for matters referred by the Council or overview and scrutiny committees for reconsideration and for reports of overview and scrutiny committees.
- (d) Any member of the Standing Consultative Panel may ask the Leader to put an item on the agenda of an executive meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Executive. The notice of the meeting will give the name of the Councillor who asked for the item to be considered.
- (e) The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of an executive meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the

## **EXECUTIVE PROCEDURE RULES**

agenda of an executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

### **3. DECLARATION OF INTERESTS**

3.1 In the Rule and, where relevant, Rule 4 –

“the Code” means the Conduct of Conduct for Members adopted by the Council under Section 28 of the Localism Act 2011;

“disclosable pecuniary interest” means an interest specified in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and set out in paragraph 8 of the Code;

“personal interest” means an interest described in paragraph 11 or 12.2 of the Code;

“prejudicial interest” means an interest described in paragraph 13.1 of the Code;

3.2 Where a member of the Council is present at a meeting of the Executive and has a disclosable pecuniary interest or, subject to paragraphs 12.4 to 12.6 of the Code, a personal interest in any matter to be considered or being considered at the meeting, they must disclose the interest to the meeting.

### **4. NON-PARTICIPATION AND WITHDRAWAL IN THE CASE OF DISCLOSABLE PECUNIARY INTERESTS AND PREJUDICIAL INTERESTS**

4.1 Where the member of the Council has a disclosable pecuniary interest or, subject to paragraphs 13.3 and 13.4 of the Code, prejudicial interest in any matter being considered at a meeting they must not participate in any discussion or vote on the matter and must withdraw from the room of the meeting while the matter is being considered.”

# **Section E**

## **Overview and Scrutiny Procedure Rules**



Overview and Scrutiny Procedure Rules

**CONTENTS**

- Rule 1. Establishment and Membership**
- Rule 2. Terms of Reference**
- Rule 3. Meetings of the Overview and Scrutiny Committees**
- Rule 4. Quorum**
- Rule 5. Work Programme**
- Rule 6. Matters referred by Councillors to Overview and Scrutiny Committees**
- Rule 7. Policy Review and Development**
- Rule 8. Reports and Recommendations of from Overview and Scrutiny Committee**
- Rule 8A Reports and Recommendations – partner authorities**
- Rule 8B Publications of reports, recommendations and responses**
- Rule 9. Consideration of Overview and Scrutiny Reports by the Executive**
- Rule 10. Rights of Overview and Scrutiny Committee Members to Documents**
- Rule 11. Members and Officers Giving Account**
- Rule 12. Attendance by Others**
- Rule 12A Crime and Disorder Committee – Special Provisions**
- Rule 13. Call-in**
- Rule 14. Call-in and Urgency**
- Rule 15. The Party Whip**
- Rule 16. Procedure at Overview and Scrutiny Committee Meetings**
- Rule 17. Matters within the Remit of More than one Overview and Scrutiny Committee**

## OVERVIEW AND SCRUTINY PROCEDURE RULES

### 1. Establishment and Membership

- 1.1 The Council will establish the overview and scrutiny committees set out in Article 6 and will appoint to them as it considers appropriate from time to time.
- 1.2 Each overview and scrutiny committee shall comprise at least 10 elected members.
- 1.3 All Councillors except members of the Executive (and Assistants to Executive Members) may be members of an overview and scrutiny committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.
- 1.4 Chairs of overview and scrutiny committees will be appointed by the Council, provided that the political group balance of the Chairs shall reflect the political balance of the Council.
- 1.5 The Young People and Children Scrutiny Committee will deal with the overview and scrutiny role relating to any education function of the Council. Its membership shall include the following voting representatives:
  - one representative of the Diocese of Manchester
  - one representative of the Diocese of Salford and Shrewsbury
  - one representative of King David Schools
  - three elected parent governor representatives
- 1.6 When the Young People and Children Scrutiny Committee deals with matters not relating in whole or in part to any education functions which are the responsibility of the Executive, the representatives in (e) above shall not vote, although they may stay in the meeting and speak.
- 1.7 The Young People and Children Scrutiny Committee shall co-opt as non-voting members of committee two teacher representatives.
- 1.8 The Communities Scrutiny Committee shall be the Council's Crime and Disorder Committee, pursuant to section 19 of the Police and Justice Act 2006.
- 1.9 The Health Scrutiny Committee will discharge the Council's health scrutiny functions, pursuant to section 244 of the National Health Service Act 2006 and regulations 21, 22, 23 26 and 27 of The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.
- 1.10 The Council is a lead local flood authority by virtue of section 6(7) of the Flood and Water Management Act 2010 and is therefore required to ensure that the Council's overview and scrutiny arrangements include arrangements for the scrutiny of flood risk management pursuant to

## OVERVIEW AND SCRUTINY PROCEDURE RULES

section 9FH of the Local Government Act 2000. The Neighbourhoods Scrutiny Committee shall discharge the Council's flood risk scrutiny functions.

- 1.11 Without prejudice to (e) and (g) above, overview and scrutiny committees shall be entitled to recommend to Council the appointment of up to two people as non-voting co-optees, provided that a majority of the members of any committee are elected members.

### **2. Terms of Reference**

The general and specific role of the overview and scrutiny committees will be as set out in Article 6 of Part 2 of this Constitution.

### **3. Meetings of the overview and scrutiny committees**

There shall be at least 2 ordinary meetings of each overview and scrutiny committee in each council cycle. In addition, extraordinary meetings may be called from time to time as and when appropriate. An extraordinary overview and scrutiny committee meeting shall be called by the Chief Executive at the request of the Chair of the relevant overview and scrutiny committee, by any [5] members of the committee or the Monitoring Officer.

### **4. Quorum**

The quorum for an overview and scrutiny committee shall be in accordance with Council Procedure Rule 15.

### **5. Work programme**

- 5.1 The overview and scrutiny committees/sub-committees will be responsible for setting their own work programme and in doing so they shall take into account the wishes of members on that committee who are not members of the largest political group on the Council.

- 5.2 The overview and scrutiny committees shall also respond, as soon as their work programme permits, to requests from the Council and the Executive to review particular areas of Council activity. Where they do so, the overview and scrutiny committee shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the overview and scrutiny committee at the next available meeting.

### **6. Matters referred by Councillors to Overview and Scrutiny Committee and matters referred by the Manchester Youth Council**

- 6.1 Any member of an overview and scrutiny committee or sub-committee may refer to that committee or sub-committee any matter which is relevant to the functions of the committee/sub-committee by giving notice in writing to the Chief Executive.

## OVERVIEW AND SCRUTINY PROCEDURE RULES

- 6.2 Any member of the authority may refer to an overview and scrutiny committee of which they are not a member any local government matter (as defined in Rule 6.8) which is relevant to the functions of the committee by giving notice in writing to the Chief Executive.
- 6.3 Any member of the authority who is not a member of the Communities Scrutiny Committee (being the designated Crime and Disorder Committee) may refer to that committee any local crime and disorder matter (as defined in Rule 6.9) by giving notice in writing to the Chief Executive.
- 6.4 On receipt of a notice under Rule 6.1, 6.2, 6.3, or 6.11, the matter will be included on the agenda for, and discussed at, a meeting of the relevant committee or sub-committee. Notices under Rule 6.2, 6.3 or 6.11 must be served no later than 28 days before the meeting at which the matter is to be discussed.
- 6.5 In considering whether to exercise the power in Rule 6.2 or 6.3, the member must have regard to any guidance issued by the Secretary of State and any protocol issued by the Council in connection with this power.
- 6.6 In considering whether or not to exercise any of its powers in relation to the matter referred under Rule 6.2 or 6.3 the committee may have regard to any representations made by the member as to why it would be appropriate to exercise any of its powers. If the committee decides not to exercise any of those powers in relation to the matter, it must notify the member of the decision and the reasons for it.
- 6.7 Where the overview and scrutiny committee exercises its power to make a report or recommendation to the Council or the Executive on any matter referred to it by a member under Rule 6.2 or 6.3 the committee must provide the member with a copy of the report or recommendation (subject to Rule 8B).
- 6.8 Under Rule 6.2 a “local government matter” in relation to a member means a matter which relates to the discharge of any function of the authority and affects all or part of the ward for which the member is elected or any person who lives or works in that ward, but excludes -
- (a) a local crime and disorder matter as defined in Rule 6.9;
  - (b) any matter relating to a planning decision;
  - (c) any matter relating to a licensing decision under the Licensing Act 2003;
  - (d) any matter relating to an individual or entity where that person has a statutory right to a review or right of appeal (other than a right to complain to the Ombudsman);

## OVERVIEW AND SCRUTINY PROCEDURE RULES

- (e) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda or discussed at the overview and scrutiny committee meeting;
- (f) any matter specified in an order made by the Secretary of State.

Provided that a matter is not excluded from being a local government matter, notwithstanding that it would otherwise fall within (b), (c) or (d) above, if it consists of an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on systematic basis.

6.9 Under Rule 6.3 a “local crime and disorder matter”, in relation to a member, means a matter concerning -

(a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or

(b) the misuse of drugs, alcohol and other substances,

which affects all or part of the ward for which the member is elected or any person who lives or works in that ward.

6.10 The determination of whether a matter is a “local government matter” or a “local crime and disorder matter” under Rules 6.8 and 6.9 above shall be made by the Chair of the relevant overview and scrutiny committee in consultation with the City Solicitor.

6.11 The Manchester Youth Council may, by resolution of either House, refer to an overview and scrutiny committee any local government matter or crime and disorder matter which is relevant to the functions of the committee by giving notice in writing to the Chief Executive, including with the notice a copy of the resolution of the Youth Council and any report the Youth Council wishes the committee to consider.

(a) “A local government matter” is a matter which relates to the lawful discharge of any function of the authority and affects young people who live, work or study in the city, but excludes -

(i) any matter relating to a planning decision;

(ii) any matter relating to a licensing decision under the Licensing Act 2003;

(iii) any matter relating to an individual or entity where that person has a statutory right to a review or right of appeal (other than a right to complain to the Ombudsman).

(b) “A crime and disorder matter” is a matter concerning

## OVERVIEW AND SCRUTINY PROCEDURE RULES

- (i) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- (ii) the misuse of drugs, alcohol and other substances,

which affects young people who live, work or study in the city.

- 6.12 In considering whether or not to exercise any of its powers in relation to the matter referred under Rule 6.11 the committee may have regard to any representations made by the Youth Council as to why it would be appropriate to exercise its powers. If the committee decides not to exercise any of those powers in relation to the matter, it must inform the Youth Council of the decision and the reasons for it.
- 6.13 The determination of whether a matter is a “local government matter” or a “crime and disorder matter” under Rule 6.11 shall be made by the Chair of the relevant scrutiny committee in consultation with the City Solicitor.

### **6A Matters referred to the Health Scrutiny Committee by Local Healthwatch**

- 6A.1 The Local Healthwatch organisation or Local Healthwatch contractor (which in Manchester is the Manchester Citizens’ Advice Bureau) may refer any matter relating to the planning, provision and operation of the health service in Manchester to the Health Scrutiny Committee in accordance with the provisions of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

## **7. Policy review and development**

- 7.1 The role of the overview and scrutiny committees in relation to the development of the Council's budget and policy framework is set out in the Budget and Policy Framework Procedure Rules.
- 7.2 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, overview and scrutiny committees or sub-committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- 7.3 Overview and scrutiny committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

**8. Reports and Recommendations of Overview & Scrutiny Committee**

- 8.1 This rule applies where an overview and scrutiny committee makes a report or recommendation to the Council or the Executive, except in relation to a crime and disorder matter or a health scrutiny matter.
- 8.2 The overview and scrutiny committee may publish the report or recommendations.
- 8.3 The overview and scrutiny committee must by notice in writing require the Council or Executive -
- (a) to consider the report or recommendation;
  - (b) to respond to the committee indicating what (if any) action the Council or Executive proposes to take;
  - (c) if the committee has published the report or recommendation to publish the response;
  - (d) if the committee provided a copy of the report or recommendation to a member under Rule 6.7, to provide the member with the response;
  - (e) to do all of the above within two months of receiving the report or recommendations or (if later) the notice.
- 8.4 It is the duty of the Council or Executive to which a notice is given under Rule 8.3 to comply with the requirements specified in the notice.

**8A Reports and Recommendations – “partner authorities”**

- 8A.1 This rule applies where an overview and scrutiny committee makes a report or recommendation to the Council or the Executive (otherwise than by virtue of subsection 1(b) or 3(a) of section 19 of the Police and Justice Act 2006 (local scrutiny of crime and disorder matters) and the report or any of the recommendations relates to functions of a relevant partner authority so far as exercisable in relation to –
- (a) the Council’s area, or
  - (b) the inhabitants of the Council’s area.

For the purposes of Rule 8A a “relevant partner authority” means –

- The Greater Manchester Fire and Rescue Authority
- The Greater Manchester Police and Crime Commissioner
- The Greater Manchester Waste Disposal Authority
- The Greater Manchester Combined Authority
- The North Manchester Clinical Commissioning Group (CCG)
- The Central Manchester CCG
- The South Manchester CCG
- The National Health Service Commissioning Board
- Any provider of probation services operating within Manchester in pursuance of arrangements under section 3 of the Offender

## OVERVIEW AND SCRUTINY PROCEDURE RULES

Management Act 2007 which provide for it to co-operate with responsible authorities

- Any youth offending team established under section 9 of the Crime and Disorder Act 1998 operating within Manchester
- Any National Health Service Trust or NHS Foundation Trust which provides services within Manchester
- The Arts Council of England
- The English Sports Council
- The Environment Agency
- The Health and Safety Executive
- The Historic Buildings and Monuments Commission
- The Homes and Communities Agency
- The Chief Executive of Skills funding
- The Museums, Libraries and Archives Council
- Natural England
- The Secretary of State, but only in relation to –
  - His/her functions under section 2 of the Employment and Training Act 1973 (arrangements with respect to obtaining etc. employment or employees))
  - Functions which he/she has as highway authority by virtue of section 1 of the Highways Act 1980
  - Functions which he/she has as traffic authority by virtue of section 121A of the Road Traffic Regulation Act 1984
  - His/her functions under sections 2 and 3 of the Offender Management Act 2007 (responsibility for ensuring the provision of probation services throughout England).

8A.2 The overview and scrutiny committee may by notice in writing to the relevant partner authority (accompanied by the report/recommendations) require that authority to have regard to the report or recommendation in question in exercising their functions.

8A.3 The relevant partner must comply with the requirement in the notice to have regard to the report/recommendations.

### **8B Reports and Recommendations – “risk management authorities”**

8B.1 This rule applies where the Council’s Neighbourhood Scrutiny Committee is discharging the Council’s scrutiny functions as a lead flood authority pursuant to section 9FH of the Local Government Act 2000.

- (a) For the purposes of Rule 8B the following are “risk management authorities” –
- The Environment Agency
  - A Water Company (as defined by Part 2 of the Water Industry Act 1991).



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- (b) The risk management authorities listed at Rule 8B.1(a) must comply with a request made by the Council's Neighbourhood Scrutiny Committee for
  - (i) information;
  - (ii) a response to a report.

### **8C Publication of reports, recommendations and response**

Where a report or recommendation of an overview and scrutiny committee or response of the Council or the Executive is published pursuant to Rule 8.2 or 8.3(c), and is provided to a member of the Council or relevant partner authority under Rule 6.7 or 8A.2, or risk management authority under Rule 8B any confidential information must be excluded and any relevant exempt information may be excluded in line with the provisions of Section 21D of the Local Government Act 2000.

### **9. Consideration of Overview and Scrutiny reports by the Executive**

- 9.1 The agenda for executive meetings shall include an item entitled 'Issues arising from overview and scrutiny'. The reports of overview and scrutiny committees referred to the Executive shall be included at this point in the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) within [two] months of the overview and scrutiny committee completing its report/recommendations.
- 9.2 Where an overview and scrutiny committee or sub-committee prepares a report for consideration by the Executive in relation to a matter where the leader or Council has delegated decision making power to another individual member of the Executive, then the overview and scrutiny committee will submit a copy of their report to that individual for consideration. At the time of doing so, the overview and scrutiny committee shall serve a copy on the Chief Executive and the Leader. If the member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee then he/she must then refer the matter to the next available meeting of the Executive for debate before exercising his/her decision making power and responding to the report in writing to the overview and scrutiny committee. The Executive Member to whom the decision making power has been delegated will respond to the Overview and Scrutiny committee within [4] weeks of receiving it. A copy of his/her written response to it shall be sent to the Proper Officer and he/she will attend a future meeting to respond.
- 9.3 Overview and scrutiny committees will have access to the Executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an overview and scrutiny committee following a consideration of possible

## OVERVIEW AND SCRUTINY PROCEDURE RULES

policy/service developments, the committee will be able to respond in the course of the Executive's consultation process in relation to any key decision.

### **10. Rights of overview and scrutiny committee members to documents**

10.1 In addition to their rights as councillors, members of overview and scrutiny committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 Section B of this Constitution.

10.2 Nothing in this paragraph prevents more detailed liaison between the Executive and overview and scrutiny committees as appropriate depending on the particular matter under consideration.

### **10A Rights of Executive Members**

Subject to the provisions of the Code of Conduct for Members and without prejudice to the rights of Executive Members under rule 13.4, Executive Members and Assistant Executive Members may attend meetings of overview and scrutiny committees including parts of the meeting where exempt items are being discussed and shall be entitled to receive the agenda for the meeting (including exempt matters) and to speak, give evidence and answer questions at the invitation of the committee.

### **11. Members and officers giving account**

11.1 Any overview and scrutiny committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance

and it is the duty of those persons to attend if so required.

11.2 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the overview and scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance.

### **12. Attendance by others**

## OVERVIEW AND SCRUTINY PROCEDURE RULES

An overview and scrutiny committee may invite people other than those people referred to in paragraph 11 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and may invite such people to attend.

### 12A Crime and Disorder Committee – Special Provisions

12A.1 In this paragraph

- (a) the “responsible authorities” are
  - (i) Manchester City Council,
  - (ii) every provider of probation services operating within Manchester in pursuance of arrangements under Section 3 of the Offenders Management Act 2007 which provide for it to co-operate with responsible authorities,
  - (iii) the Chief Constable of Greater Manchester Police,
  - (iv) the Greater Manchester Police Authority,
  - (v) the Greater Manchester Fire and Rescue Authority
  - (vi) every Clinical Commissioning Group (CCG), the whole or any part of whose area.
  
- (b) the “co-operating persons or bodies” are
  - (i) every local probation board within Manchester
  - (ii) every provider of probation services operating within the area in pursuance of arrangements under section 3 of the Offender Management Act 2007 which provide for it to co-operate under this subsection with the responsible authorities;
  - (iii) any parish council within Manchester,
  - (iv) any National Health Service Trust established under Part 1 of the National health Service and Community Care Act 1990 which manages a hospital, establishment or other facility within Manchester,
  - (v) any NHS foundation trust within the meaning of section 1(1) of the Health and Social Care (Community Health and standards) Act 2003 within Manchester,
  - (vi) any governing body of a school, within the meaning of section 4(1) of the Education Act 1996, within Manchester maintained by the Manchester local education authority,
  - (vii) any proprietor of an independent school, within the meaning of section 463 of the Education Act 1996 within Manchester,
  - (viii) any proprietor of an alternative provision Academy that is not an independent school within Manchester;
  - (ix) any proprietor of a 16 to 19 Academy within Manchester;
  - (vii) any governing body of an institution within the further education sector, as defined in section 91 f the Further and Higher Education Act 1992 within Manchester, and

## OVERVIEW AND SCRUTINY PROCEDURE RULES

(viii) any private registered provider of social housing (within the meaning of Part 2 of the Housing and Regeneration Act 2008) in Manchester.

(c) “crime and disorder functions” mean the reduction of crime and disorder in the area (including anti-social and other behaviour adversely affecting the environment) and combating the misuse of drugs, alcohol and other substances in the area and reduction of re-offending in the area.

(d) “local crime and disorder matter” has the meaning set out in paragraph 6.9

12A.2 The Crime and Disorder Committee may make reports and recommendations to the Council or to the Executive, as appropriate, with respect to the discharge by any of the responsible authorities of their crime and disorder functions or with respect to any local crime and disorder matter.

12A.3 The Crime and Disorder Committee may require the attendance before it of an officer and employee of a responsible authority or of a co-operating person or body in order to answer questions, provided that reasonable notice of the intended date of attendance has been given to that person.

12A.4 The Crime and Disorder Committee may make a request in writing to the responsible authorities or the co-operating persons or bodies for information relating to –

- (a) the discharge, or decisions or actions taken in connection with the discharge, by the responsible authorities of their crime and disorder functions; or
- (b) local crime and disorder matters in relation to which the Committee has functions under Section 19 of the Police and Justice Act.

12A.5 Where the Crime and Disorder Committee makes a request for information under paragraph 12A.4, the responsible body or co-operating person or body must provide the information –

- (a) no later than the date indicated in the request, unless some or all of the information cannot be reasonably provided by that date, in which case it must be provided soon as reasonably possible;
- (b) excluding personal data unless (subject to (c) below) the identification of an individual is necessary or appropriate in order to enable the Committee to properly exercise its powers;

## OVERVIEW AND SCRUTINY PROCEDURE RULES

- (c) excluding information that would be reasonably likely to prejudice legal proceedings or current or future operations of the responsible authorities or the co-operating persons or bodies.

12A.6 Where the Crime and Disorder Committee makes a report or recommendations to the local authority with respect to a local crime and disorder matter, it must provide a copy of the report and recommendations to such of the responsible authorities or co-operating persons or bodies, as it thinks appropriate.

12A.7 Where the Crime and Disorder Committee provides a report or recommendation to a responsible body or a co-operating person or body in respect of a local crime and disorder matter, the responses to such report or recommendations shall be in writing and submitted to the Committee within a period of 28 days from the date of the report or recommendation or, if not reasonably practicable, as soon as reasonably possible thereafter.

### **12B Health Scrutiny Committee – Special Provisions**

The Health Scrutiny Committee may review and scrutinise any matter relating to the planning, provision and operation of the health service in Manchester in accordance with the provisions of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

### **13. Call-in**

13.1 When a decision is made by the Executive, an individual member of the Executive or a committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive, [or an area committee or under joint arrangements,] the decision shall be published, including where possible by electronic means, and shall be available at the Town Hall normally within 2 days of being made. All members of the Council will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

13.2 The record of the decision will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, as from 4.00pm on the fifth day after the day on which the decision was published, unless within this time it is called in for scrutiny.

13.3 Subject to 13.5 below, a decision may be called-in for scrutiny by an overview and scrutiny Committee if the Chair of the overview and scrutiny Committee or any five members of the Council submit a notice in writing to the Chief Executive within the five day period giving reasons why the decision should be scrutinised.

## OVERVIEW AND SCRUTINY PROCEDURE RULES

- 13.4 The Chief Executive shall then notify the decision-taker of the call-in. Any item which is called-in will be placed on the agenda for the next meeting of the relevant Overview and Scrutiny Committee. The relevant Chief Officer and/or Executive Member shall have the right to attend the meeting to explain the reasons for the decision and to respond to comments made at the meeting subject in the case of Executive Members to the provisions of the Code of Conduct for Members.
- 13.5 A decision may not be called-in if the Committee has already made recommendations to the decision-taker and those recommendations have been accepted by the decision-taker either in whole or without significant addition or modification.
- 13.6 Where a decision has been called-in by five members of the Council and none of those members attend, the Committee may at its discretion determine not to scrutinise the decision.
- 13.7 If, having considered the decision, (which consideration must be completed before the next scheduled meeting of the Executive) the overview and scrutiny committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. Matters should normally only be referred to full Council if the overview and scrutiny committee consider the decision to be contrary to the policy framework of the Council or contrary to or not wholly in accordance with the budget.
- 13.8 If the decision is referred back to the decision maker they shall then reconsider who may amend the decision or not, before adopting a final decision which will come into force immediately.
- 13.9 If following an objection to the decision, the overview and scrutiny committee does not either refer the matter back to the decision making person or body or refer the matter to full Council or determines under 13.6 above not to scrutinise the matter, the decision shall take effect on the date of the overview and scrutiny meeting.
- 13.10 If the matter was referred to full Council and the Council does not object to the decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.

## OVERVIEW AND SCRUTINY PROCEDURE RULES

13.11 If the Council does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting.

### **14. Call-in and Urgency**

14.1 The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the legal or financial position of the Council or the interests of the residents of Manchester. The record of the decision, and the notice by which it is made public shall state whether in the opinion of the decision making person or body (having considered the advice of the Head of the Paid Service and/or the Monitoring Officer and/or the Chief Finance Officer), the decision is an urgent one, and therefore not subject to call-in. The Chair of a relevant overview and scrutiny committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency.

In the absence of the Chair, the Lord Mayor's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

14.2 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

14.3 Where a decision is exempted from call-in, it will become effective immediately or (if later) as soon as the agreement of the Chair of the relevant overview and scrutiny committee (or the Lord Mayor/Head of Paid Service, if appropriate) has been obtained.

### **15. The party whip**

When considering any matter in respect of which a member of an overview and scrutiny committee is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

### **16. Procedure at overview and scrutiny committee meetings**

16.1 Overview and scrutiny committees and sub-committees shall consider the following business:

- (a) minutes of the last meeting;
- (b) declarations of interest (including whipping declarations);

## OVERVIEW AND SCRUTINY PROCEDURE RULES

- (a) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
- (d) responses of the Executive to reports of the overview and scrutiny committee; and
- (e) the business otherwise set out on the agenda for the meeting.

16.2 Where the overview and scrutiny committee conducts investigations (e.g. With a view to policy development), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles: -

- (a) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (b) that those assisting the committee by giving evidence be treated with respect and courtesy; and
- (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

16.3 Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

### **17. Matters within the remit of more than one overview and scrutiny committee**

Where an overview and scrutiny committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another overview and scrutiny committee, then the committee conducting the review shall invite the Chair of the other committee (or his/her nominee) to attend its meetings when the matter is being reviewed.



## **Section F**

# **Officer Employment Procedure Rules**

## **OFFICER EMPLOYMENT PROCEDURE RULES**

### **1. RECRUITMENT AND APPOINTMENT**

#### **1.1 Declarations**

- (a) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or senior officer of the Council; or of the partner of such persons.
- (b) No candidate so related to a councillor or senior officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her

#### **1.2 Seeking support for appointment**

- (a) Subject to paragraph (c), the Council will disqualify any applicant who directly or indirectly canvasses the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (b) Subject to paragraph (c), no councillor will canvass support for any person for any appointment with the Council.
- (c) Nothing in paragraphs (a) and (b) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

### **2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS**

2.1 Where the Council proposes to appoint the Head of Paid Service or a chief officer (other than on an acting basis) and it is not proposed that the appointment be made exclusively from among their existing officers, the Council or its Personnel Committee will establish a committee [or sub-committee] to act as the appointment panel.

2.2 The appointment panel will:

- (a) draw up a statement specifying the duties of the post concerned and a specification of the qualifications or qualities to be sought in the person to be appointed.
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

## **OFFICER EMPLOYMENT PROCEDURE RULES**

- 2.3 The appointment panel will interview all qualified applicants for the post or select a short-list of such qualified applicants and interview those included on the short-list.
- 2.4 Where the Council propose to appoint the Head of the Paid Service or a chief officer (other than on an acting basis) exclusively from amongst their existing officers the Council or its Personnel Committee will establish a committee [or sub-committee] which will make arrangements in connection with the appointment.

### **3. APPOINTMENT OF HEAD OF PAID SERVICE**

- 3.1 The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee [or sub-committee] of the Council. That committee [or sub-committee] must be politically balanced and include at least one member of the Executive.
- 3.2 The full Council may only make or approve the appointment of the Head of Paid Service where the procedure set out in Annex 1 to these Rules has been completed.

### **4. APPOINTMENT OF CHIEF OFFICERS AND DESIGNATED DEPUTY CHIEF OFFICERS**

- 4.1 A committee [or sub-committee] of the Council will appoint chief officers and such deputy chief officers as the Council may from time to time designate. That committee [or sub-committee] must be politically balanced and include at least one member of the Executive.
- 4.2 An offer of employment as a chief officer or designated deputy chief officer shall only be made where the procedure set out in Annex 1 to these Rules has been completed.

### **5. APPOINTMENT OF OTHER DEPUTY CHIEF OFFICERS**

- 5.1 In relation to deputy chief officer posts other than those designated under 4.1 above the Personnel Committee will determine whether appointments to such posts should be made by an all officer panel or a mixed panel of officers and members.
- 5.2 An offer of employment as a deputy chief officer shall only be made where the procedure set out in Annex 1 to these Rules has been completed.

### **6. OTHER APPOINTMENTS**

- 6.1 Officers below deputy chief officer. Appointment of officers below deputy chief officer (other than assistants to political groups) is the

## **OFFICER EMPLOYMENT PROCEDURE RULES**

responsibility of the Head of the Paid Service or an officer nominated by him/her and may not be made by councillors.

- 6.2 Assistants to political groups. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

### **7. DISCIPLINARY ACTION**

- 7.1 No disciplinary action, except as described in 7.2 below may be taken in respect of the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer, except in accordance with a recommendation in a report made by a designated independent person under Regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).
- 7.2 The action mentioned in 7.1 above is the suspension of the officer on full pay for the purpose of investigating the alleged misconduct; any such suspension must terminate no later than the expiry of 2 months beginning on the day on which the suspension takes effect, unless the designated independent person directs that it may continue beyond that period.
- 7.3 Councillors will not be involved in the disciplinary action against any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

### **8. DISMISSAL**

- 8.1 Councillors will not be involved in the dismissal of any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.
- 8.2 Where a committee or sub-committee of the authority is discharging, on behalf of the authority, the function of or in relation to, the dismissal of the Head of Paid Service, a chief officer or a deputy chief officer, that committee or sub-committee must include at least one member of the executive.
- 8.3 Where a committee of sub-committee is discharging the function in relation to the dismissal of the Head of Paid Service, the full Council must approve any recommendation of dismissal before notice of dismissal is given.

## OFFICER EMPLOYMENT PROCEDURE RULES

8.4 Notice of dismissal of the Head of Paid Service, a chief officer or a deputy chief officer must not be given until the procedure set out in Annex 2 has been completed.

### 9. DEFINITIONS

- "Chief Officers" include "statutory chief officers" and "non-statutory chief officers" as defined in section 2 of the Local Government and Housing Act 1989 ("the 1989 Act").
- "Deputy Chief Officer" has the same meaning as in section 2 of the 1989 Act.
- "Senior Officer" means an officer on spinal column point 32 or above.

**APPOINTMENT OF HEAD OF PAID SERVICE, CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS**

1. This procedure applies to the appointment of the Head of Paid Service, Chief Officers and Deputy Chief Officers (“relevant officers”) and has been incorporated into these Rules, as required by the Local Authorities (Standing Orders) (England) Regulations 2001.
2. In this procedure, “appointor” means, in relation to the appointment of a relevant officer, the committee, sub-committee or panel making the appointment, or, in the case of the appointment of the Head of Paid Service, making a recommendation to the Council.
3. An offer of an appointment as a relevant officer must not be made by the appointor until -
  - (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
  - (b) the proper officer has notified every member of the executive of: -
    - (i) the name of the person to whom the appointor wishes to make the offer;
    - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
    - (iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and
  - (c) either: -
    - (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither s/he nor any member of the executive has any objection to the making of the offer;
    - (ii) the proper officer has notified the appointor that no objection was received by him/her within that period from the executive leader; or
    - (iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.
4. The “proper officer” for the purposes of paragraph 3 will be the Head of Corporate Personnel.

**DISMISSAL OF HEAD OF PAID SERVICE, CHIEF OFFICERS  
AND DEPUTY CHIEF OFFICERS**

1. This procedure applies to the dismissal of the Head of Paid Service, chief officers and deputy chief officers (“relevant officers”) and has been incorporated into these Rules, as required by the Local Authorities (Standing Orders) (England) Regulations 2001.
2. In this procedure, “dismissor” means, in relation to the dismissal of a relevant officer, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
3. Notice of the dismissal of a relevant officer must not be given by the dismissor until -
  - (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  - (b) the proper officer has notified every member of the executive of: -
    - (i) the name of the person who the dismissor wishes to dismiss;
    - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
    - (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and
  - (c) either: -
    - (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither s/he nor any other member of the executive has any objection to the dismissal;
    - (ii) the proper officer has notified the dismissor that no objection was received by him/her within that period from the executive leader; or
    - (iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.
4. The “proper officer” for the purposes of paragraph 3 will be the Head of Corporate Personnel.

# **PART 5**

## **FINANCIAL REGULATIONS**



# CONTENTS

- Section A.** Status of Financial Regulations
- Section B.** Role and Responsibilities of Members and Officers
- Section C.** Policies, Risk Management and External Arrangements
- Section D.** Financial Systems and Procedures
- Section E.** Contract Procurement Rules

# Section A

## Status of Financial Regulations

## STATUS OF FINANCIAL REGULATIONS

### SECTION A: STATUS OF FINANCIAL REGULATIONS

1. Financial regulations provide the framework for managing the Council's financial affairs and are deemed to be part of Manchester City Council's constitution. They apply to every member and officer of the Council and anyone acting on its behalf.
2. The regulations identify the financial responsibilities of the Full Council, Executive, Finance Overview and Scrutiny Committee Members, Audit Committee Members, the Chief Executive, the Monitoring Officer, the City Treasurer, Chief Officers and Heads of Service. The Executive and Chief Officers should maintain a written record where decision making has been delegated to members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible officers, references to the Chief Officer in the regulations should be read as referring to them.
3. All members and officers have a general responsibility for taking reasonable action to provide for the security and proper recording of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.
4. Part 8 of the Constitution sets out the management structure of the Council, including a list of Chief Officers and Heads of Service. Unless otherwise specified in these Regulations, the term "Chief Officer" refers to the Chief Officer with strategic and/or service responsibility for the service(s) in question. The term "Head of Service" refers to the Head of Service with service (including budget holding) responsibility for the service(s) in question or any other officer designated to carry out the responsibilities of a Head of Service under these Regulations in respect of a particular service(s).
5. Chief Officers and Heads of Service must ensure that officers are aware of the provisions of the Council's Code of Conduct for Employees including that: -
  - Employees have a responsibility to declare any links or personal interests that they may have with purchaser, suppliers and/or contractors, if they are engaged in contractual or purchasing decisions on behalf of the Council.
  - Employees shall not invite bids from any individual or organisation with whom they have a family, personal or financial relationship; and
  - Employees must not seek or receive any gift or personal inducement in connection with the procurement of works, goods or services.
6. All Chief Officers must maintain a record of pecuniary and non pecuniary interests that will ensure compliance with the Council's Code of Conduct for Employees and the Local Government Act 1972 (Section 117). It is incumbent on individuals to ensure that all interests are appropriately declared and are kept up to date. If an officer's work involves contact with any individual or organisation with whom they have a family, personal or financial relationship that officer must notify their Chief Officer in writing.
7. The City Treasurer can allow exceptions to these Regulations if it is believed that the interests of the Council would be best served if the Regulations were not applied. The City Treasurer must keep a written record of any exceptions and submit an annual report to Full Council summarising their decisions. The Assistant Chief Executive (Finance and Performance) is authorised to act on behalf of the City Treasurer in agreeing exceptions.

## **Section B**

# **Roles and Responsibilities**

## ROLES AND RESPONSIBILITIES

### SECTION B: ROLES AND RESPONSIBILITIES

#### Full Council

1. The Full Council is responsible for adopting the Council's Constitution, Code of Conduct for Members and for approving the budget and policy framework within which the Executive operates.

#### Executive

2. The Executive is responsible for proposing the budget and policy framework to the Full Council, and for discharging executive functions in accordance with the policy framework and budget.
3. The Executive is responsible for taking in-year decisions on resources and priorities in order to deliver the budget and policy framework within the financial limits set by the Council.
4. Executive decisions can be delegated to a committee of the Executive, an individual Executive Member or an officer.
5. Individual Executive Members should consult with relevant officers before taking a decision within their delegated authority. In doing so, the individual member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

#### Overview and Scrutiny Committees

6. Overview and Scrutiny Committees are responsible for scrutinising executive decisions before or after they have been implemented and for holding the Executive to account. Overview and Scrutiny Committees are also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Council.
7. The Finance Overview and Scrutiny Committee exercises overview and scrutiny functions in relation to financial matters, and other general matters and reports to the Executive and/or Full Council, as appropriate.

#### Audit Committee

8. The Audit Committee is responsible for approving the annual statement of accounts.
9. The Audit Committee is responsible for approving (but not directing) the internal audit strategy and annual plan and for receiving assurance over the effectiveness of systems of governance, risk management and internal control.
10. The Audit Committee consists of elected members and independent co-opted members. The Committee's responsibilities include reviewing external auditors' reports, the annual audit letter, internal audit and risk management reports and the City Treasurer's annual report on the effectiveness of the system of internal audit.

## ROLES AND RESPONSIBILITIES

### Standards Committee

11. The Standards Committee is responsible for promoting and maintaining high standards of conduct amongst members. In particular, it is responsible for advising the Council on the adoption and revision of the Code of Conduct for Members, and for monitoring the operation of the code.

### Chief Executive

12. The Chief Executive is responsible for the corporate and overall strategic management of the Council as a whole. He or she must report to and provide information for the Executive, the Full Council, the overview and scrutiny committees and other committees. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the Council.

### Monitoring Officer

13. Responsible for reporting any actual or potential breaches of the law or maladministration to the Full Council and/or to the Executive, and for ensuring that procedures for recording and reporting key decisions are operating effectively.
14. Responsible for advising the Executive and/or Full Council about whether a decision is likely to be considered contrary to, or not wholly in accordance with, the Council's budget and policy framework.
15. Together with the City Treasurer, is responsible for advising the Executive or full Council about whether a decision is likely to be considered contrary to, or not wholly in accordance with the budget. Such actions include:
  - initiating a new policy
  - committing expenditure in future years above the approved budget level
  - interdepartmental transfers above virement limits
  - causing total net expenditure to increase beyond the approved budget.

### City Treasurer

16. The City Treasurer has various statutory duties in relation to the financial administration and stewardship of the Council, most of which cannot be overridden. The statutory duties, arise from:
  - Section 151 of the Local Government Act 1972
  - Section 114 and 114A of the Local Government Finance Act 1988
  - Section 25 of the Local Government Act 2003
  - Regulation 5 of the Accounts and Audit Regulations 2003, as amended.
17. Section 151 requires the Council to make arrangements for the proper administration of their financial affairs and to secure that one of their officers has responsibility for the administration of those affairs. The Council has designated the City Treasurer to fulfil this role and he/she has the statutory title of Chief Finance Officer.

## ROLES AND RESPONSIBILITIES

18. Sections 114 and 114A of the Local Government Finance Act 1988 require the City Treasurer to report to the Executive or the Full Council (as appropriate) and to the external auditor, if it appears to him/her that the Executive or the Council or a person or committee on their behalf: -
  - has made, or is about to make, a decision which involves or would involve the authority in incurring expenditure which is unlawful
  - has taken, or is about to take, a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council
  - is about to enter an item of account the entry of which is unlawful
19. Section 114 of the 1988 Act further requires the City Treasurer to report to full Council if it appears to him/her that the expenditure of the Council incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.
20. In preparing reports under Section 114 or 114A, the City Treasurer should consult so far as practicable the Chief Executive and the Monitoring Officer. The City Treasurer should also nominate a properly qualified member of staff to deputise if he or she is unable to act owing to absence or illness.
21. The Council must provide the City Treasurer with such staff, accommodation and other resources as are in his/her opinion sufficient to allow his/her duties under Section 114 and 114A to be performed.
22. When the Council is setting its budget the City Treasurer is required under Section 25 of the Local Government Act 2003 to report on: -
  - the robustness of the estimates made for the purposes of the calculations
  - the adequacy of the proposed financial reserves.
23. Regulation 5 of the Accounts and Audit Regulations 2003, as amended, requires the City Treasurer to determine on behalf of the Council: -
  - its accounting records, including the form of accounts and supporting accounting records
  - its accounting control systems
24. The City Treasurer is responsible for: -
  - the proper administration of the Council's affairs
  - setting and monitoring compliance with financial management standards
  - ensuring proper professional practices are adhered to and to act as head of profession in relation to the standards of finance staff throughout the Council
  - advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
  - preparing the revenue budget and capital programme

## ROLES AND RESPONSIBILITIES

- treasury management and banking
  - ensuring that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.
25. The City Treasurer will make arrangements so that internal auditors have the authority -
- to have access to Council premises at reasonable times
  - to have access to documents, records and equipment in the possession of the Council
  - to require any officer of the Council to account for cash, stores or any other Council asset under their control
  - where possible, to have access to records belonging to third parties, such as contractors, when required
  - to receive information concerning any matter under investigation
  - to have access to the Chief Executive, the Executive, the Audit Committee and Overview and Scrutiny Committees
26. The City Treasurer is responsible for: -
- maintaining a continuous review of the financial regulations
  - reporting breaches of financial regulations, where appropriate, to the Chief Executive
  - issuing advice and guidance to underpin the financial regulations.

### Chief Officers and Heads of Service

27. Responsible for ensuring that all staff in their services are aware of the existence and content of the Council's financial regulations and other internal regulatory documents and that they comply with them. They must also ensure that managers and staff are aware of these policies and know how to access them on the council's intranet.
28. To ensure compliance with the financial management standards set by the City Treasurer in their services and to monitor adherence to the standards and practices, liaising as necessary with the City Treasurer.
29. To ensure sound financial practices in relation to the standards, performance and development of staff in their services.
30. Responsible for ensuring that Executive Members are advised of the financial implications of all proposals and that the City Treasurer has agreed the financial implications.
31. Responsible for consulting with the City Treasurer and seeking approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.



## **Section C**

# **Policies, Risk Management and External Arrangements**

# POLICIES, RISK MANAGEMENT AND EXTERNAL ARRANGEMENTS

## SECTION C: POLICIES, RISK MANAGEMENT AND EXTERNAL ARRANGEMENTS

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## **CHAPTER 1 - POLICIES**

### **CORPORATE PLANS**

#### **Chief Executive**

1. Responsible for proposing corporate plans to the Executive for consideration before their submission to the full Council for approval.

#### **City Treasurer**

2. To advise and supply, as appropriate and in conjunction with Chief Officer and Heads of Services, the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.
3. To contribute to the development of corporate and service targets and objectives and performance information.
4. To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.
5. To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

#### **Chief Officers and Heads of Service**

6. To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.
7. To contribute to the development of performance plans in line with statutory requirements.
8. To contribute to the development of corporate and service targets and objectives and performance information.
9. To advise and supply, as appropriate and in conjunction with the City Treasurer, the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.

### **ACCOUNTING POLICIES**

#### **City Treasurer**

12. Responsible for the preparation of the Council's statement of accounts, in accordance with proper practices as set out in the format required by the relevant codes of practice on local authority accounting in the United Kingdom, for each financial year ending 31st March.

## **POLICIES, RISK MANAGEMENT AND EXTERNAL ARRANGEMENTS**

13. Will select suitable accounting policies and ensure that they are applied consistently and comply with the Code. The accounting policies are set out in the statement of accounts, which is prepared at 31st March each year, and covers such items as:
  - the basis on which debtors and creditors are included in the accounts.
  - provisions and reserves.
  - property, plant and equipment.
  - depreciation.
  - capital charges.
  - work in progress.
  - inventories.
  - accounting for value added tax.
  - government grants.
  - leasing.
  - private finance initiatives
  - pensions
  - borrowing and investments
14. To undertake regular comparisons of performance indicators and benchmark standards to help ensure the council delivers value for money from its resources.
15. To make judgements and estimates that are reasonable and prudent.
16. To advise the Executive on the format of the budget approved by Full Council.
17. To advise the Full Council on Executive proposals in accordance with their responsibilities under section 151 of the Local Government Act 1972.

### Chief Officers and Heads of Service

18. To comply with accounting guidance provided by the City Treasurer.

## **TRADING OPERATIONS**

### City Treasurer

19. Responsible for advising on the establishment and procedures for trading operations.
20. To advise, and keep updated, Chief Officers and Heads of Services on accounting principles to be applied to trading operations.
21. To issue guidance to Chief Officers and Heads of Services, including timetables for the production of annual business plans and the budget targets to be included.

### Chief Officers and Heads of Services

## **POLICIES, RISK MANAGEMENT AND EXTERNAL ARRANGEMENTS**

22. To consult with the City Treasurer where a trading operation wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the Council. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty. If under best value arrangements where there is no main contract (with market testing of elements of service provision undertaken), the strategic future of the service should be considered and the City Treasurer consulted, before entering into external contracts.
23. To observe all statutory requirements in relation to trading operations, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.
24. To ensure that the same accounting principles are applied in relation to trading operations as for other services.
25. To ensure that each trading operation prepares an annual business plan.

### **STAFFING**

#### Chief Executive

26. Determine how officer support for executive and non-executive roles within the Council will be organised.
27. Responsible for providing overall management to staff. They will also be responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

#### City Treasurer

28. To ensure that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
29. To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
30. To ensure that budget provision exists for all existing and new employees.
31. To be responsible for the payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to members.
32. To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
33. To record and make arrangements for the accurate and timely payment of tax, national insurance, superannuation and other deductions.

## POLICIES, RISK MANAGEMENT AND EXTERNAL ARRANGEMENTS

34. To act as an advisor to Chief Officers and Heads of Service on areas such as national insurance and pension contributions, as appropriate.
35. To set out and issue a Staff Expenses Scheme to be followed where staff incur personal expenses when carrying out their duties on behalf of the Council.

### Chief Officers and Heads of Service

36. To ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available.
37. To notify the appropriate personnel officer of all appointments, terminations or variations that may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the City Treasurer.
38. To ensure that adequate and effective systems and procedures are operated, so that:
  - payments are only authorised to bona fide employees
  - payments are only made where there is a valid entitlement
  - conditions and contracts of employment are correctly applied
  - employees' details listed on the payroll are checked at regular intervals to verify accuracy and completeness.
39. To ensure that the service maintains and reviews periodically a list of officers approved to authorise payments, together with specimen signatures, and to ensure that only authorised officers authorise payments.
40. To ensure that payroll transactions are processed only through the payroll system. Chief Officers and Heads of Service should give careful consideration to the employment status of individuals retained on a self-employed consultant or subcontract basis. An employment status form must be completed before the individual is taken on. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the City Treasurer.
41. To ensure that the City Treasurer is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
42. To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with guidance issued by the City Treasurer.
43. Responsible for producing an annual staffing budget. Ensuring that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).
44. Responsible for controlling total staff numbers by:
  - advising the Executive on the budget necessary in any given year to cover estimated staffing levels.

## **POLICIES, RISK MANAGEMENT AND EXTERNAL ARRANGEMENTS**

- adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs. Ensuring that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.
45. Responsible for ensuring that the City Treasurer is immediately informed if the staffing budget is likely to be materially over or under spent.
  46. Responsible for monitoring staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.
  47. To ensure staff expenses are paid in accordance with the Staff Expenses Scheme.
  48. To certify all staff expenses. Certification is taken to mean that journeys were authorised in advance and that incidental expenses were properly and necessarily incurred and that allowances are properly payable by the Council, ensuring that cost-effective travel arrangements are used. Due consideration should be given to tax implications and that the advice of the City Treasurer is sought where necessary.

## **CHAPTER 2 – ASSURANCE AND RISK MANAGEMENT**

### **RISK MANAGEMENT**

#### **Executive**

1. Responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management and to promote a culture of risk management awareness throughout the Council.

#### **Audit Committee**

2. Responsible for obtaining assurance over the Council's governance and risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.

#### **City Treasurer**

3. Responsible for preparing the Council's risk management policy statement, for promoting it throughout the Council and for advising the Executive on proper insurance cover where appropriate.
4. Responsible for ensuring that proper insurance exists where appropriate.
5. To develop and document risks and controls through the production of a Corporate Risk Register, in conjunction with other Chief Officers and Heads of Services.
6. To develop and document the Corporate Business Continuity plan, in conjunction with other Chief Officers and Heads of Services.
7. To include all appropriate employees of the Council in a suitable fidelity guarantee insurance.
8. On a regular basis, the City Treasurer will forward to Chief Officers and Heads of Services schedules of assets covered by insurance.
9. To affect corporate insurance cover, through external insurance and internal funding, except for tenants' contents insurance, which will be administered by Strategic Housing.

#### **City Solicitor**

10. To arrange for the negotiation of claims in consultation with other officers, including the City Treasurer, where necessary.

#### **Chief Officers and Heads of Service**

11. To contribute to the production of a Corporate Risk Register.
12. To take responsibility for risk management, having regard to advice from the City Treasurer and other specialist officers (e.g. crime prevention, fire prevention, health and safety).



## **POLICIES, RISK MANAGEMENT AND EXTERNAL ARRANGEMENTS**

13. To ensure appropriate resilience and business continuity plans are in place.
14. To ensure that there are regular reviews of risk within their services.
15. To notify the City Treasurer immediately of any loss, liability or damage that may lead to a claim by or against the Council, together with any information or explanation required by the City Treasurer or the Council's insurers.
16. To notify the City Treasurer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
17. If any assets covered by insurance are damaged or stolen, Chief Officers and Heads of Services must not order replacements, remedial repairs or other work - except for emergency measures to prevent further damage or loss occurring - until the City Treasurer has been consulted. Damage or loss arising from malicious acts should be reported to the police.
18. To notify the City Treasurer promptly of any significant acquisitions or disposals of assets or any alteration to the scope or level of services provided, particularly where the risk of accident, injury, loss or damage is likely to increase.
19. To examine the schedules of assets covered by insurance, provided by the City Treasurer, and ensure that the details of those assets are correctly recorded and that the scope and level of insurance cover is adequate, consistent with the Council's corporate insurance arrangements.
20. To provide the City Treasurer with any information that he or she needs and in the timescale that he or she sets, to enable him or her to manage the Council's insurances effectively.
21. To consult with the City Treasurer and the City Solicitor on the terms of any indemnity that the Council is requested to give.
22. To ensure that officers, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

### **INTERNAL CONTROL**

#### **Audit Committee**

23. Responsible for considering and approving the review of the authority's system of internal controls by the City Treasurer and approving an Annual Governance Statement, which sets out and reviews the Council's governance arrangements as defined in the CIPFA/SOLACE Governance Framework, for inclusion in the annual statement of accounts.

#### **Standards Committee**

24. To overview the whistle-blowing policy.

## **POLICIES, RISK MANAGEMENT AND EXTERNAL ARRANGEMENTS**

### Chief Executive

25. In conjunction with the City Treasurer and the City Solicitor to develop and maintain an anti-fraud and anti-corruption policy, whistle-blowing policy and risk management processes.

### City Treasurer

26. Responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and effectively and in accordance with the statutory and other provisions that govern their use.
27. In conjunction with the Chief Executive and the City Solicitor to develop and maintain an anti-fraud and anti-corruption policy, whistle-blowing policy and risk management processes.
28. To assist the Council to put in place an appropriate control environment and effective internal controls, which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.
29. To maintain adequate and effective internal control arrangements.
30. To review annually the effectiveness of the Council's system of internal control and to report the findings to the Audit Committee.
31. To ensure that all suspected financial irregularities are reported to the Head of Internal Audit, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in by the Head of Internal Audit to determine with the Crown Prosecution Service whether any prosecution will take place.

### Chief Officers and Heads of Service

32. Responsible for establishing sound arrangements, consistent with guidance given by the City Treasurer, for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.
33. Responsible for devising systems of control to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
34. To review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the City Treasurer. Chief Officers and Heads of Services should also be responsible for removing controls that are unnecessary or not cost or risk effective, for example, because of duplication.

## **POLICIES, RISK MANAGEMENT AND EXTERNAL ARRANGEMENTS**

35. Responsible for managing and reviewing processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
36. To ensure staff have a clear understanding of the consequences of lack of control.
37. To ensure that all suspected financial irregularities are reported to the City Treasurer and Head of Internal Audit.
38. To instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

### **INTERNAL AUDIT**

39. Section 151 of the Local Government Act 1972, requires that authorities 'make arrangements for the proper administration of their financial affairs'. Regulation 6 of the Accounts and Audit (England) Regulations 2011 specifically requires that a 'relevant body must undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with proper practices in relation to internal control'.
40. Internal audit is an assurance function that provides an independent and objective opinion to the Council on the control environment, by evaluating its effectiveness in achieving its objectives. It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources.

#### **Audit Committee**

41. Responsible for reviewing the City Treasurer's annual report on the effectiveness of Internal Audit and the Head of Internal Audit's Annual Assurance Statement.
42. To approve the strategic and annual audit plans prepared by the Head of Internal Audit, which take account of the characteristics and relative risks of the activities involved.

#### **City Treasurer**

43. Responsible for submitting an annual report on Internal Audit to Audit Committee.
44. Regulation 5 of the Accounts and Audit (England) Regulations 2011 requires the City Treasurer to determine on behalf of the Council: -
  - its accounting records, including the form of accounts and supporting accounting records
  - its accounting control systems
45. The City Treasurer will make arrangements so that internal auditors have authority: -
  - to have access to Council premises at reasonable times

## **POLICIES, RISK MANAGEMENT AND EXTERNAL ARRANGEMENTS**

- to have access to documents, records and equipment in the possession of the Council
  - to require any officer of the Council to account for cash, stores or any other Council asset under their control
  - where possible, to have access to records belonging to third parties, such as contractors, when required
  - to receive information concerning any matter under investigation
  - to have access to the Chief Executive, the Executive, the Audit Committee and Overview and Scrutiny Committees.
46. To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

### **Chief Officers and Heads of Service**

47. To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
48. To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
49. To consider and respond promptly to recommendations in audit reports.
50. To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
51. To notify the Head of Internal Audit immediately of any suspected fraud, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Chief Officers and Heads of Service should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
52. To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Head of Internal Audit prior to implementation.

### **EXTERNAL AUDIT**

53. The Audit Commission Act 1998 set up the Audit Commission, which is responsible for appointing external auditors to each local authority in England and Wales. The external auditor has rights of access to all documents and information necessary for audit purposes.
54. To provide assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Council's resources.

## **POLICIES, RISK MANAGEMENT AND EXTERNAL ARRANGEMENTS**

55. The Council may, from time to time, be subject to audit, inspection or investigation by various external bodies such as HM Revenues and Customs and the Inland Revenue, who have statutory rights of access.

### Audit Committee

56. Responsibility to review external auditors' reports and the annual audit letter approving the annual statement of accounts.

### City Treasurer

57. To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
58. To ensure there is effective liaison between external and internal audit.
59. To work with the external auditor and advise the Full Council, Executive and Chief Officers and Heads of Services on their responsibilities in relation to external audit.

### Chief Officers and Heads of Service

60. To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.
61. To ensure that all records and systems are up to date and available for inspection.

## **CHAPTER 3 – EXTERNAL ARRANGEMENTS**

### **EXTERNAL FUNDING**

#### **City Treasurer**

1. To ensure that funds are acquired only to meet the priorities approved in the policy framework by the Full Council.
2. To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.
3. To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.
4. To ensure that audit requirements are met.
5. Where they are specifically responsible for submitting grant claims, to ensure that all claims for funds are made by the due date.

#### **Chief Officers and Heads of Service**

6. To ensure that the principals set out in the Grants protocol are followed, the protocol sets out minimum standards applicable to all grants, but it should be borne in mind that some grants may have additional requirements imposed by grant awarding bodies, external audit etc which will also need to be met. It also set out the processes around external Audit certification of grant claims and returns.
7. To ensure the details of any new funding are submitted to the Revenue Gateway group for scrutiny before submitting a bid for new external funding and before committing to spend a new grant received by the council in year.
6. To ensure that funds are acquired only to meet the priorities approved in the policy framework by the Full Council.
7. Where they are specifically responsible for submitting grant claims, to ensure that all claims for funds are made by the due date.
8. To maintain adequate supporting documentation to enable claims for funding to be maximised/validated.
9. For grant claims subject to External Audit to ensure that claims and supporting documentation are made available to the External Auditors by the due date.
10. To ensure that the project progresses in accordance with the agreed project plan and that all expenditure is properly incurred and recorded and in accordance with any guidelines which may prevail at the time.

# POLICIES, RISK MANAGEMENT AND EXTERNAL ARRANGEMENTS

## **PARTNERSHIPS**

### Executive

11. The Executive to provide the strategic direction for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
12. The Executive will delegate functions as appropriate, including those relating to partnerships, to Chief Officers and Heads of Services. These are set out in the scheme of delegation that forms part of the Council's constitution. Where functions are delegated, the Executive remains accountable for them to the Full Council.
13. Representation of the Council on partnership and external bodies will be decided in accordance with the scheme of delegation.

### Chief Executive

14. In conjunction with the City Treasurer must also ensure adequate and robust governance arrangements are in place and consider the overall corporate governance arrangements, risk and legal issues when arranging contracts with external bodies.
15. Responsible with the City Treasurer and Monitoring Officer for developing and maintaining the Partnership Governance Framework and ensuring that the arrangements to ensure compliance are adhered to.

### City Treasurer

16. Must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory.
17. In conjunction with the Chief Executive must also consider the overall corporate governance arrangements, risk and legal issues when arranging contracts with external bodies.
18. Ensure that all new partnership arrangements the Council enters into are registered under the Partnership Governance Statement Framework, and that arrangements are risk assessed and that the accounting arrangements to be adopted by partnerships and joint ventures are satisfactory.
19. To ensure that partnership governance arrangements are underpinned by clear and well-documented internal financial controls.
20. In conjunction with the appropriate Chief Officers and Heads of Service must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
21. To advise on effective controls that will ensure resources are not wasted.
22. To advise, as appropriate, on the key elements of funding a project, including:

## **POLICIES, RISK MANAGEMENT AND EXTERNAL ARRANGEMENTS**

- a scheme appraisal for financial viability in both the current and future years.
- risk appraisal and management.
- resourcing, including taxation issues.
- audit, security and control requirements.
- carry-forward arrangements.

### **Chief Officers and Heads of Service**

23. Understanding and complying with the requirements of the Partnership Governance Framework. Ensure that all new partnership arrangements the Council enters into are registered under the Partnership Governance Statement Framework, and that arrangements are risk assessed and that the accounting arrangements to be adopted by partnerships and joint ventures are satisfactory.
24. In conjunction with the City Treasurer ensure that the risks have been fully appraised before agreements are entered into with external bodies.
25. Chief Officers and Heads of Services are responsible for ensuring that the City Treasurer is consulted on the progress of negotiations and that appropriate approval is granted prior to the conclusion of any negotiations with partner organisations.
26. To consult with the City Treasurer, as necessary, on a scheme's appraisal for financial viability in both the current and future years.
27. To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the City Treasurer.
28. To provide the City Treasurer with all necessary information.
29. To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the City Treasurer.
30. To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council.
31. To ensure that all agreements and arrangements are properly documented.
32. To provide appropriate information to the City Treasurer to enable a note to be entered into the Council's statement of accounts concerning material items.

### **WORK FOR THIRD PARTIES**

#### **Executive**

33. Responsible for approving the contractual arrangements for any work for third parties or external bodies unless this is delegated to Chief Officers and Heads of Services.



## **POLICIES, RISK MANAGEMENT AND EXTERNAL ARRANGEMENTS**

### City Treasurer

34. To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.
35. To issue guidance on how proposals for any work with third parties should be costed.
36. To issue guidance on financial matters to be included in the completion of contracts.

### Chief Officers and Heads of Service

37. To ensure that proposals for working with third parties are costed properly and in accordance with guidance provided by the City Treasurer.
38. To ensure that contracts are drawn up using guidance provided by the City Treasurer and the formal approvals process is adhered to.
39. To ensure that the approval of the Executive is obtained before any negotiations are concluded to work for third parties.
40. To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the City Treasurer.
41. To ensure that appropriate insurance arrangements are made.
42. To ensure that the Council is not put at risk from any bad debts.
43. To ensure that no contract is subsidised by the Council without the approval of the Executive.
44. To ensure that, wherever possible, payment is received in advance of the delivery of the service.
45. To ensure that the service/unit has the appropriate expertise to undertake the contract.
46. To ensure that such contracts do not impact adversely upon the services provided for the Council.
47. To ensure that all contracts are properly documented.
48. To provide appropriate information to the City Treasurer to enable relevant disclosures to be made in the statement of accounts.

## Section D

# Financial Systems and Procedures

<b>SECTION D: Financial Systems and Procedures</b>
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## **CHAPTER 1 - GENERAL**

### **BUDGETARY**

#### **City Treasurer**

1. Responsible for ensuring that the Council's financial systems are sound.
2. Responsible for establishing arrangements to approve and be notified, in advance, of any proposed new developments or changes to existing financial systems.
3. Responsible for the operation and administration of the Council's accounting systems, the form of accounts and the supporting financial records, including to:
  - issue advice, guidance and procedures for officers and others acting on the Council's behalf.
  - determine the accounting systems, form of accounts and supporting financial records.
  - ensure that accounts are closed down and financial statements prepared in line with the statutory deadlines
  - establish arrangements for audit of the Council's financial affairs.
  - comply with Whole of Government accounts requirements, given statutory effect by the Finance Act 1998, in accordance with CIPFA and Audit Commission guidance.

#### **Chief Officers and Heads of Service**

4. Responsible for the proper operation of financial processes in their respective service.
5. To ensure that accounting records are properly maintained and held securely.
6. To ensure that systems are documented and that staff receive relevant financial training before staff are granted access to financial systems.
7. The City Treasurer must approve any changes to the existing procedures, financial systems or the establishment of new systems in advance before they are implemented.
8. Responsible for ensuring that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the Chief Officer's and Heads of Service's behalf, in respect of committing expenditure, payments and income collection, together with the limits of their authority.
9. To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the City Treasurer.

## FINANCIAL SYSTEMS AND PROCEDURES

10. To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
11. To incorporate appropriate controls to ensure that, where relevant:
  - all input is genuine, complete, accurate, timely and not previously processed.
  - all processing is carried out in an accurate, complete and timely manner.
  - output from the system is complete, accurate and timely.
  - data is backed up on a regular basis.
12. To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
13. To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building. To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
14. To ensure that computer systems are registered in accordance with data protection, copyright, designs and patents legislation and that staff are aware of their responsibilities under the legislation. To ensure that:
  - only software legally acquired and installed by the Council is used on its computers.
  - staff are aware of legislative provisions.
  - in developing systems, due regard is given to the issue of intellectual property rights.
15. To ensure that the Council's information security standards and internet security policy are complied with.
16. To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.

## **BUDGET PREPARATION AND BUSINESS PLANNING**

17. Budgets represent the expression in financial terms of the Council's policies and constitute a statement of intent against which judgements can be formed. Each Chief Officer in consultation with the City Treasurer must prepare a revenue budget to be presented to the Executive prior to scrutiny and approval by Full Council. Chief Officers may then spend within the amounts shown in the relevant budgets as long as the spending relates to the Council's existing policies. Each Chief Officer, in conjunction with the City Treasurer, has a responsibility to ensure that their budgets and establishments are accurately reflected on the Council's financial system (SAP) by 1 April.

## FINANCIAL SYSTEMS AND PROCEDURES

18. The City Treasurer must collate capital estimates jointly with Chief Officers and Heads of Services to submit them as a capital programme, including and associated financing requirements, to the Executive which will make recommendations for approval by the Full Council.
19. It is illegal for the Council to budget for a deficit

### Full Council

20. Responsible for approving the general format of the revenue and capital budget, proposed by the Executive on the advice of the City Treasurer. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.
21. Responsible for approving the Council's revenue and capital budget and policy framework proposed by the Executive. The policy framework comprises the plans and strategies set out in Article 4 of Part 2 of the Constitution.
22. In terms of financial planning, the key elements are:
  - Sustainable Community Strategy
  - Corporate Plans
  - Medium Term Financial Plan
  - Business Plans
  - Budget
  - Capital Strategy and Programme.
  - Treasury Management
  - Annual Investment Strategy
  - Minimum Revenue Provision Strategy

### Executive

23. Responsible for approving guidance on the general content of the revenue and capital budget as submitted by the City Treasurer.
24. Responsible for proposing the revenue and capital budget and policy framework to the Full Council, and for discharging executive functions in accordance with the revenue and capital policy framework and budget.
25. To approve schedules for individual capital schemes within the overall budget approved by Full Council.

### Finance Overview and Scrutiny Committee

26. To exercise overview and scrutiny function in relation to financial matters, and other general matters and report to Executive and/or Full Council, as appropriate.

## FINANCIAL SYSTEMS AND PROCEDURES

### City Treasurer

27. To prepare and submit reports on budget prospects, for Executive, including resource constraints set by the government. Reports should take account of medium term prospects, where appropriate.
28. To prepare and submit reports to the Executive and the Council on the aggregate spending plans of services and on the resources available to fund them, including the robustness of the estimates made and the adequacy of proposed financial reserves, and identifying, where appropriate, the implications for the level of Council tax to be levied and on the level of housing rents/service charges.
29. To prescribe detailed formats for revenue and capital budget preparation as follows:

Revenue	Capital
To prescribe the detailed format for the preparation of revenue estimates, for submission to and approval by Full Council, in accordance with the Council's general directions.	To issue guidance relating to the strategy and controls for capital schemes. The City Treasurer, having regard to Government regulations and accounting requirements, will determine the definition of 'capital'.
The City Treasurer is responsible for ensuring that a revenue budget is prepared on an annual basis for consideration by the Executive, before submission to the Full Council. The Full Council may amend the budget or ask the Executive to reconsider it before approving it.	Responsible for ensuring that a capital programme, including prudential indicators for the forthcoming year is prepared on an annual basis for consideration by the Executive before submission to the Full Council. The report to the Executive to take into account, when setting or revising prudential indicators, the following: <ul style="list-style-type: none"> <li>- affordability</li> <li>- prudence and sustainability</li> <li>- value for money</li> <li>- stewardship of assets</li> <li>- service objectives</li> <li>- practicality</li> </ul>
To ensure, where appropriate, that proposals have been through the Council's Revenue Gateway process prior to Executive approval. This includes approval for: <ul style="list-style-type: none"> <li>- request for release of funds approved in budget but not yet allocated to departmental cash limit</li> <li>- request to bid for new external funding</li> <li>- request to utilise increased grant resources allocated to the Council in year (includes any external funds allocated/received in advance)</li> </ul>	To collate capital estimates jointly with Chief Officers and Heads of Services and the Chief Executive and to submit them to the Executive for approval. Executive will make recommendations on the capital estimates and on any associated financing requirements to the Full Council. Executive approval is required where a Chief Officer and/or Head of Service proposes to bid for, or exercise additional borrowing approval, not anticipated in the capital programme.

## FINANCIAL SYSTEMS AND PROCEDURES

Revenue	Capital
<ul style="list-style-type: none"> <li>- bids for the Development Fund</li> <li>- bid for use of reserves</li> <li>- request to carry forward funding</li> </ul>	
	To approve, in conjunction with the Executive Member for Finance and Human Resources, capital schemes that include project plans, progress targets and associated revenue expenditure submitted by Chief Officers and Heads of Services.
	To ensure that all capital schemes have been through the Council's Gateway Review Process before approval to spend the allocation is granted. Note that approval is required for all externally funded schemes (including those which are 100% funded from external sources).

30. The guidelines will take account of:

- legal requirements
- medium-term planning prospects
- corporate plans
- available resources
- spending pressures
- Service Reporting Code of Practice (SeRCOP) and other relevant government guidelines
- other internal policy documents.
- cross-cutting issues (where relevant).

31. To encourage the best use of resources and value for money by working with Chief Officers and Heads of Services to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.

### Chief Officers and Heads of Service

32. To ensure that priorities within Business Plans are delivered and that budgets are balanced across services within their directorates.

33. To ensure that there is a clear direction for the services in their directorate that aligns with the Sustainable Community Strategy and Corporate Plan. The Chief Officer must provide leadership for change, innovation and creativity.



## FINANCIAL SYSTEMS AND PROCEDURES

34. Responsibility to ensure that budget estimates reflecting agreed service plans are submitted to the Executive and that these estimates are prepared in line with guidance issued by the City Treasurer.
35. To prepare budgets that are consistent with any relevant cash limits, with the Council's annual budget cycle and with guidelines issued by the City Treasurer. The City Treasurer in accordance with the Full Council's general directions will prescribe the format.
36. When drawing up draft budget requirements, to have regard to:
- spending patterns and pressures revealed through the budget monitoring process,
  - legal requirements,
  - policy requirements as defined by the Full Council in the approved policy framework and with partners in the delivery of the Sustainable Community Strategy,
  - initiatives already under way, and
  - the following table:

Revenue	Capital
To comply with the laid-down guidance, controls and timetable issued by the City Treasurer, and prepare detailed draft revenue proposals for consideration by the Executive and scrutiny committees.	To comply with the laid-down guidance, controls and timetable issued by the City Treasurer, and prepare detailed draft capital bids for consideration by the Executive and scrutiny committees.
To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures, a risk assessment has been carried out and that links are made with workforce development planning.	To submit a prioritised list of bids as part of the annual capital budgeting process representing the schemes required to deliver service strategy.
To prepare estimates of income and expenditure, with guidance from the City Treasurer, to be submitted to the Executive. To ensure that budget estimates reflecting agreed service plans are submitted to the Executive and that these estimates are prepared in line with guidance issued by the Executive and City Treasurer.	To prepare schedules for individual schemes within the overall capital budget approved by the Full Council and submit to the Executive for approval or under other arrangements approved by the Full Council.
Where appropriate, to submit revenue proposals through the Council's Revenue Gateway process and subsequent approval by the City Treasurer and Executive Member for Finance and Human Resources	To ensure that a scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project, and submitted for approval through the Capital Gateway

## FINANCIAL SYSTEMS AND PROCEDURES

Revenue	Capital
<p>and Executive as required. This includes:</p> <ul style="list-style-type: none"> <li>- request for release of funds approved in budget but not yet allocated to departmental cash limit</li> <li>- request to bid for new external funding</li> <li>- request to utilise increased grant resources allocated to the Council in year (includes any external funds allocated/received in advance)</li> <li>- bid for use of reserves</li> <li>- request to carry forward funding</li> </ul>	<p>Process and by the City Treasurer and Executive Member for Finance and Human Resources.</p>
	<p>To ensure that approvals for all capital expenditure proposals are obtained prior to a scheme's commencement, from the City Treasurer (for expenditure not exceeding £10,000) or from the City Treasurer and the Executive Member for Finance and Human Resources (for expenditure above £10,000), and that capital expenditure approvals are not exceeded.</p>

### **RESOURCE ALLOCATION**

#### Executive

37. Responsible for taking in-year decisions on resources and priorities in order to deliver the budget and policy framework within the financial limits set by the Council.

#### City Treasurer

38. To develop and maintain a resource allocation process that ensures due consideration of the Full Council's policy framework and legal constraints.
39. To advise on methods available for the funding of resources, such as grants from Central Government and borrowing requirements.
40. To advise on the suitability of proposals to introduce/modify financial procedures to control resources.

#### Chief Officers and Heads of Service

41. To assist in the allocation of resources to budget managers.
42. To work within delegated cash limits (General Fund) and to utilise resources allocated, and furthermore to allocate resources, in the most efficient, effective and economic way.

## FINANCIAL SYSTEMS AND PROCEDURES

43. To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

### **MONITORING AND CONTROLLING BUDGETS**

44. Chief Officers and Heads of Service must ensure that they comply with the rules in relation to key decisions set out in Rule 16 of the Access to Information Procedure Rules in Part 4 of this Constitution.

#### City Treasurer

45. Ensure the deployment of adequate staff resources to ensure that the process of budget monitoring is adequately supported.
46. In consultation with the Monitoring Officer responsible for advising the Executive or Full Council about whether a decision is likely to be considered contrary to, or not wholly in accordance with the budget. Such actions include:
- initiating a new policy
  - committing expenditure in future years above the approved budget level
  - interdepartmental transfers above virement limits (see 75-90 below)
  - causing total net expenditure to increase beyond the approved budget.
47. To establish an appropriate budgetary framework to monitor, manage and control to ensure that:
- budget management is exercised within annual cash limits unless the Full Council agrees otherwise.
  - Each Chief Officer and Head of Service has available timely information on expenditure and income on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities.
  - expenditure is committed only against an approved budget head.
  - officers responsible for committing expenditure comply with relevant guidance and financial regulations.
  - each cost centre has a single named manager, determined by the relevant Chief Officer and Head of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure.
  - each cost centre manager must be set up in the Council's computerised financial management system and an appropriately authorised substitute must also be identified and set up to undertake approvals in the absence of the cost centre manager.
  - significant variances from approved budgets are investigated and reported by budget managers regularly and should include mitigating action to address pressures.

## FINANCIAL SYSTEMS AND PROCEDURES

Revenue	Capital
Responsible for monitoring and controlling overall expenditure and income against budget allocations and report to the Executive on the Council's overall position on a regular basis.	To report and seek Executive approval for increasing capital expenditure which can be funded through additional external resources, capital receipts or credit approvals.
The procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework, and for determining the circumstances in which a decision will be deemed contrary to the budget or policy framework, are set out in the Budget and Policy Framework Procedure Rules. The Monitoring Officer should refer decisions to the Full Council.	To prepare and submit global monitoring reports to the Executive on the projected income, expenditure and resources compared with the approved estimates and to recommend action where necessary to ensure that capital expenditure is fully funded.
To submit reports to the Executive and to the Full Council, in consultation with the relevant Chief officer and Head of Service, where a Chief Officer or Head of Service is unable to balance expenditure and resources within existing approved budgets under their control.	

48. To administer the Council's scheme of virement (*see paragraph 83 below*).
49. To ensure that each Chief Officer and Head of Service identifies a cost centre manager (and authorised substitute) to be set up in the Council's computerised financial management system for each item of income and expenditure incurred by the service within each Chief Officer and Head of Service's cash limit. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
50. To ensure prior approval by the Full Council or Executive (as appropriate) for new proposals, of whatever amount, that:
  - create financial commitments in future years
  - change existing policies, initiate new policies or cease existing policies
  - materially extend or reduce the Council's services.
51. To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
52. Where an approved budget (a lump sum budget or contingency) is intended for allocation during the year, funding may be used without further approval, provided that:
  - the amount is used in accordance with the purposes for which it has been established

## FINANCIAL SYSTEMS AND PROCEDURES

- the Executive has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Executive.

### Chief Officers and Heads of Services

53. To exercise discretion in managing budgets responsibly and prudently. For example, they should not support recurring revenue expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Chief Officers and Heads of Services must plan to fund such commitments from within their own budgets.
54. To maintain budgetary control within their services, in adherence to the principles above, and to ensure that all income and expenditure is properly recorded and accounted for.
55. To ensure that spending remains within the service's overall budget allocation, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are projected.

Revenue	Capital
Responsibility to control income and expenditure within their area and within the cash limited budget allocation delegated to them, and to monitor performance. They should report on variances within their own areas and take necessary action to avoid exceeding their budget allocation and alert the City Treasurer to any problems. Where there are budget pressures mitigating actions should be identified.	To prepare returns of projected estimated final costs of schemes, in the approved capital programme, for submission to the City Treasurer and Executive Member for Finance and Human Resources.
	To consult with the City Treasurer and to seek Executive approval where the Chief Officer and/or Head of Service proposes to bid for supplementary credit approvals or grants to be issued by Government departments or others to support expenditure that has not been included in the current year's capital programme.

56. To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the City Treasurer and, if applicable, approval of the scheme through the capital programme.

## FINANCIAL SYSTEMS AND PROCEDURES

57. To ensure that priorities within Business Plans are delivered and that budgets are balanced across services within their directorates.
58. To be responsible for ensuring that the resource implications of all new projects which they initiate are identified in briefing papers to the City Treasurer and the relevant Executive Member.
59. Chief Officers to provide appropriate and necessary support and challenge to all Heads of Service to ensure the delivery of the Transformation Programme and other priorities as defined within the Sustainable Community Strategy and Corporate Plan.
60. To be responsible for ensuring that their Service provides services to the agreed standard and within their approved budget.
61. To be responsible for liaising with the relevant Executive Member and Strategic Management Team regarding progress against priorities within Business Plans.
62. To be responsible for ensuring that in circumstances where the delivery of organisational priorities, within agreed budget, is compromised, this is escalated to the Strategic Management Team for resolution.
63. Fortuitous income (deemed to be additional income that in aggregate totals or exceeds £100,000 in a service, cannot be retained within cash limit budgets and must be reported to the City Treasurer and then Executive for consideration of how these additional monies are to be used.
64. The accountability for delivery of the Business Plan within the allocated budget lies with the Head of Service. This will include continuous improvement in quality and efficiency. The Business Plan will include transformation projects.
65. Heads of Service are expected to regularly review service performance against the objectives set in the Business Plan and reprioritise where necessary to address performance and budget constraints.
66. Heads of Service are accountable for the achievement of efficiencies identified / allocated to their services.
67. Heads of Service have a responsibility to proactively engage other Heads of Service on cross cutting issues. In particular, Heads of Service must not pursue proposals for improvement or efficiency that have cost implications for other services without first discussing and agreeing with them with their colleagues. Furthermore, Heads of Service must not claim efficiencies which are already allocated to a cross cutting savings target with agreement from the City Treasurer.
68. Heads of Service are accountable for ensuring that appropriate systems and processes are in place to ensure the effective management of their service.
69. It is the responsibility of Heads of Service to ensure that effective performance and budget monitoring takes place within their service.

## FINANCIAL SYSTEMS AND PROCEDURES

70. Heads of Service are responsible for ensuring that their budget is delegated to named cost centre managers. Each cost centre manager must assign a substitute to take responsibility for these budgets in their absence. Heads of Service are responsible for ensuring that these managers understand and undertake their budgetary responsibilities effectively.
71. Where risks emerge to the delivery of a balanced budget or key performance targets, it is the responsibility of the Head of Service to identify and pursue all options for managing these risks within the service. Only after all options have been investigated, challenged and evaluated should Heads of Service escalate the issue(s) to their Chief Officers for appropriate action.
72. The Heads of Finance and their finance teams support the Heads of Service in setting budgets and establishing appropriate systems and processes for managing service budgets.
73. The budget position should be reported monthly to the Departmental Management Team and should include:
  - Budget allocations
  - Projected outturn
  - Variance of projected outturn against budget allocation
  - Explanation for any significant variances or comments on trends and future impact.
  - Forecast achievement of savings against target
  - Identification of risks and/or pressures and mitigating action to be taken to address the risk and/or pressure
74. To prepare and submit, to the service's Executive Member, reports on projected expenditure and income compared with the budget, in the form prescribed by and in accordance with, the timetable and guidelines issued by the City Treasurer.

### **VIREMENT**

75. As part of the Virement Policy a change in a budget head by a transfer from another budget within the Business Plan Area can be approved within the limits set out within these Regulations.
76. A revenue virement is deemed to be:
  - A transfer of budget from non pay to pay budgets or vice versa
  - A transfer of budget to meet a contractual long-term commitment
  - A transfer of budget between distinct service areas (for example from Highway Services to Cultural Services)
  - A transfer of budget for a different purpose as that set out in the approved Budget and Business Plan

## FINANCIAL SYSTEMS AND PROCEDURES

77. A capital virement is deemed to be movement of budget between approved capital schemes.

### Full Council

78. Responsible for agreeing procedures for virement of expenditure between budget headings and for approving any variation to the procedures.

### Executive

79. Responsible for considering reports submitted by the City Treasurer and Chief Officers and Heads of Services and approving any revenue expenditure where:

- it is proposed to vire between budgets managed by different Chief Officers and Heads of Services.
- it is for the release of earmarked sums from central contingency.
- where the proposed virement is likely to have an adverse effect on any published performance indicator.

### City Treasurer

80. To administer the virement procedures agreed by Full Council and in accordance with the Budget and Policy Framework Procedure Rules.

81. In conjunction with Chief Officers and Heads of Services, to report to and seek the prior approval of the Executive for any revenue expenditure where:

- it is proposed to vire between budgets managed by different Chief Officers and Heads of Services.
- it is for the release of earmarked sums from central contingency.
- where the proposed virement is likely to have an adverse effect on any published performance indicator.

82. To report and seek the approval of the Chief Executive (in consultation with the Leader, and the Executive Member for Finance and Human Resources) to the exercise of the virement powers' of the Executive where a matter is urgent.

### Chief Officers

83. To ensure compliance with the scheme of virement (see table below).

Threshold	Revenue	Capital
Up to £50,000	Chief Officers to vire up to £25,000 following notification to the City Treasurer.	Chief Officers to vire up to <b>£50,000</b> from within the capital programme following notification to the City Treasurer.



## FINANCIAL SYSTEMS AND PROCEDURES

<b>£50,000 - £100,000</b>	Chief Officers to exercise virement on budgets under their control on any one budget head during the year, following notification to the City Treasurer.	Chief Officers to vire £50k to £100K with the approval of the City Treasurer, in consultation with the Executive Member for Finance and Human Resources.
<b>£50,000 - £100,000</b>	Chief Officers to exercise virement following notification and approval of the City Treasurer.	Chief Officers to vire £50k to £100k with the approval of the City Treasurer, in consultation with the Executive Member for Finance and Human Resources.
<b>£100,000 - £250,000</b>	Chief Officers to exercise virement following notification and approval of the City Treasurer and Executive Member for Finance. Requests must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year.	City Treasurer to report and seek Executive approval for virements in excess of £100k and up to £500k.
<b>£250,000 - £500,000</b>	As above with City Treasurer to report and Seek Executive approval	
<b>In excess of £500,000</b>	City Treasurer to report and seek approval from the Full Council for virements in excess of £500k	City Treasurer to report and seek approval from the Full Council for virements in excess of £500k.

84. In conjunction with the City Treasurer, to report to and seek the prior approval of the Executive for any revenue expenditure where:

- it is proposed to vire between business plans managed by different Chief Officers and Heads of Service
- it is for the release of earmarked sums from central contingency
- it is for the release of funding held in an earmarked reserve, including where grant funding across more than one year has to be held in a reserve.
- where the proposed virement is likely to have an adverse effect on a priority in the approved Budget and Business Plan

## FINANCIAL SYSTEMS AND PROCEDURES

85. To agree with the relevant Chief Officer where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Chief Officer's level of service delivery.
86. All proposals for revenue virements that require City Treasurer approval for the areas set out in paragraph 85 above, will need to go through the revenue gateway process.

## **CHAPTER 2 - ACCOUNTANCY**

### **FINANCIAL RECORDS AND RETURNS**

#### **City Treasurer**

1. To determine the accounting procedures and records for the Council. Where these are maintained outside the Financial Management Division, the Chief Officers and Heads of Service should consult with the City Treasurer.
2. To comply with the following principles when allocating accounting duties:
  - separating the duties of providing information about sums due to or from the Council and calculating, checking and recording these sums from the duty of collecting or disbursing them.
  - officers with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
3. To arrange for the compilation of all accounts and accounting records under their direction.
4. To ensure that all claims for funds including grants, for which he or she is responsible for, are made by the due date.
5. To administer the Council's arrangements for under and overspendings to be carried forward to the following financial year.

#### **Chief Officers and Heads of Service**

6. To comply with the following principles when allocating accounting duties:
  - separating the duties of providing information about sums due to or from the Council and calculating, checking and recording these sums from the duty of collecting or disbursing them.
  - officers with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
7. To consult and obtain the approval of the City Treasurer before making any changes to accounting records and procedures.
8. To maintain adequate records to provide an audit trail leading from the source of income/expenditure through to the accounting statements.
9. To comply with accounting guidance provided by the City Treasurer and to supply the City Treasurer with information in the format, and by the date, requested.
10. To supply information required to enable the annual statement of accounts to be completed in accordance with guidelines issued by the City Treasurer.
11. To ensure that all claims for funds, including grants, which the Chief Officers and Heads of Service are responsible for, are made by the due date.

## FINANCIAL SYSTEMS AND PROCEDURES

12. To ensure that adequate records are maintained for all capital contracts and to report on the spend against the projects as required in line with the requirements of the City Treasurer.
13. To prepare and submit an annual report, in consultation with the City Treasurer, to the Executive on the completion of all contracts, revenue and capital, where the final expenditure exceeds the approved contract sum.

### **TREATMENT OF IN YEAR BALANCES**

#### Full Council

14. Responsible for agreeing guidelines for the carrying forward of under and overspendings on budget headings.

#### Executive

15. Any overspending on service estimates in total on General Fund budgets, under the control of the Chief Officers and Heads of Service, and which are determined by the Executive, are to be carried forward to the following year, unless the Executive determines otherwise.
16. To consider applications from Chief Officers and Heads of Services to re-invest any surpluses in excess of the target surplus set by the City Treasurer.

#### City Treasurer

17. To administer the scheme of carry forward within the guidelines approved by the Full Council.
18. To report all overspendings and underspendings on service estimates carried forward to the Executive and to the Full Council.

#### Chief Officers and Heads of Service

19. All internal trading operation surpluses shall be retained for the benefit of the Council. However, Chief Officers and Heads of Services may apply to the Executive to re-invest surpluses in excess of the target surpluses set by the City Treasurer during the budget process.
20. Managed underspending and/or additional but not fortuitous income on service estimates under the control of the Chief Officers and Heads of Service (General Fund) may be carried forward, subject to:
  - Recommendation by the Revenue Gateway group of the managed underspending or additional income including the proposed application of any carry forward for approval
  - reporting to the Executive the source of the managed underspending or additional income and the proposed application of any carry forward.
  - subsequent approval of the Executive.

## **MAINTENANCE OF RESERVES/PROVISIONS**

### Full Council

21. To approve the use of revenue and capital reserves or provisions (excluding those established from the carry forward of grants across financial years) which is in addition to that already planned and is in excess of £2m in aggregate in any financial year.
22. To approve the use of revenue and capital reserves established from the carry forward of grants across financial years which is in addition to that already planned and is in excess of £2m in aggregate in any financial year.

### Executive

23. To consider reports for the City Treasurer on prudent levels of reserves/provisions for the Council.
24. To consider reports from the City Treasurer on the adequacy of proposed financial reserves/provisions.
25. To consider reports from the City Treasurer approving the use of revenue and capital reserves or provisions (excluding those established from the carry forward of grants across financial years), in addition to that already planned, up to £2m in aggregate in any financial year.
26. To consider reports from the City Treasurer approving the use of revenue and capital reserves which have arisen from the carry forward of grants across financial years, in addition to that already planned, up to £2m in aggregate in any financial year.

### City Treasurer

27. To ensure that there are clear protocols for the establishment and use of reserves/provisions.
28. In consultation with Chief Officers and Heads of Services establish reserves and/or provisions and how to incur expenditure from reserves/provisions.
29. To advise the Executive and/or the Full Council on prudent levels of reserves for the Council, and to take account of the advice of the external auditor in this matter.
30. To report to the Executive and/or the Full Council on the adequacy of proposed financial reserves/provisions.
31. To report and seek Executive approval for the use of revenue and capital reserves or provisions (excluding those established from the carry forward of grants) in addition to that already planned and up to £2m in aggregate in any financial year. For use of reserves in excess of £2m in aggregate approval of Full Council is required.

## FINANCIAL SYSTEMS AND PROCEDURES

32. To report and seek Executive approval for the use of reserves established from the carry forward of grants across financial years in addition to that already planned and up to £2m in aggregate in any financial year. For use of reserves in excess of £2m in aggregate approval of Full Council is required.
33. To report to the Executive and/or the Full Council if a controlled resource is, or is likely to be, inadequate.

### Chief Officers and Heads of Service

34. Subject to the approval of the City Treasurer to establish reserves and/or provisions and the incurring of expenditure from reserves/provisions.
35. To ensure that the use of reserves when approved by the City Treasurer and Executive, or Full Council, as appropriate, is planned in to the budget.
36. To ensure such resources are used only for the purposes for which they were intended.
37. To comply with protocols and procedures as laid down by the City Treasurer.

## **ANNUAL STATEMENT OF ACCOUNTS**

### Audit Committee

38. Responsible for approving the audited statutory annual statement of accounts.

### City Treasurer

39. Responsible for the preparation of the Council's statement of accounts, in accordance with proper practices as set out in the format required by the relevant codes of practice on local authority accounting in the United Kingdom, for each financial year ending 31st March.
40. Will select suitable accounting policies and ensure that they are applied consistently and comply with the Code. The accounting policies are set out in the statement of accounts, which is prepared at 31st March each year, and covers such items as:
  - the basis on which debtors and creditors are included in the accounts.
  - provisions and reserves.
  - property, plant and equipment
  - depreciation.
  - Work in progress
  - inventories
  - accounting for value added tax.
  - government grants.
  - leasing.

## FINANCIAL SYSTEMS AND PROCEDURES

- private finance initiatives
  - pensions
  - borrowing and investments
41. To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.
  42. To make proper arrangements for the audit of the Council's accounts in accordance with the Accounts and Audit (England) Regulations 2011, as amended.
  43. To sign and date the statement of accounts, stating that it presents fairly the financial position of the Council at the accounting date and its income and expenditure for the year ended 31st March.
  44. To prepare and publish the audited accounts of the Council for each financial year, in accordance with the statutory timetable and with the requirement for the Audit Committee to approve the statement of accounts in accordance with the statutory timetable.

### **TAXATION**

#### City Treasurer

46. Responsible for advising Chief Officers and Heads of Services, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.
47. Responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
48. To complete all HM Revenue and Customs returns regarding Pay As You Earn (PAYE).
49. To complete a monthly return of VAT inputs and outputs to HM Revenue and Customs.
50. To provide details to the HM Revenue and Customs of deductions made under the Construction Industry Tax Deduction Scheme.
51. To maintain up-to-date guidance for Council employees on taxation issues in the tax manual.
52. To maintain an up-to-date register of VAT de minimis payments in accordance with the VAT Act 1994.

#### Chief Officers and Heads of Service

53. To ensure that the correct VAT liability is attached to all income due and that all claims for VAT recoverable on purchases complies with HM Revenue and Customs regulations and all output tax is properly identified and recorded.

## FINANCIAL SYSTEMS AND PROCEDURES

54. To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
55. To ensure that the Council is not put at risk in any funding arrangements by identifying the correct VAT treatment in accordance with the VAT Act 1994.
56. To ensure that all persons employed by the Council are added to the Council's payroll and that tax is deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
57. To follow the guidance on taxation issued by the City Treasurer in the tax guidance manual.



## **CHAPTER 3 – INCOME AND EXPENDITURE**

### **INCOME**

#### **City Treasurer**

1. To agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection and accounting for VAT.
2. To ensure that there is a robust debt management policy in place that clearly sets out the debt collection and write off procedures.
3. To approve the format of official receipts (receipt books, tickets and similar items) and procedures for the control and supply of these to services.
4. To use debt recovery procedures to collect any income due to the Council which has not been paid within specified time limits.
5. To approve the arrangements for the writing off of irrecoverable debts by Chief Officers and Heads of Services.
6. To ensure that appropriate accounting adjustments are made following any write off action.
7. To issue guidance relating to the retention and storage of income documents

#### **Chief Officers and Heads of Services**

8. To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly in line with corporate policies.
9. To ensure a division of duties between identifying amounts due for payment and the responsibility for the collection of income, as far as is practicable.
10. To adhere to the requirements of the Debt Management policy.
11. To ensure that appropriate recovery action (including legal action) is taken by the Finance Shared Service Centre. Where it has been agreed with the City Treasurer that the Chief Officers and Heads of Service are responsible for the collection and recovery of certain types of income, the Chief Officers and Heads of Service will be responsible for ensuring that appropriate recovery action (including legal action) is taken as necessary.
12. To agree the form of official receipts with the City Treasurer.
13. To ensure that official receipts are issued whenever payments are made in cash, except where cash is 'rung up' into tills, which do not produce receipts.
14. To determine when payments are received by cheque whether receipts should be issued.

## FINANCIAL SYSTEMS AND PROCEDURES

15. To hold securely receipts, tickets and other records of income for the appropriate period in accordance with guidance issued by the City Treasurer.
16. To ensure that at least two officers are present when post is opened so that money received by post is properly identified and recorded.
17. To ensure that income is locked away and safeguarded against loss or theft.
18. To ensure the security of cash handling and that there is a record of every transfer of money between officers of the Council. The receiving officer must sign for the transfer and the transferor must retain a copy.
19. To ensure that the levels of cash held on premises does not exceed the approved amount.
20. To ensure that income is paid fully and promptly into the appropriate Council's bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips or on-line financial systems to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.
21. To ensure that all income received is banked in full and is not used to make payments.
22. To ensure that when income is due to the Council and the payment is not to be made at the time, an invoice is raised promptly in a form approved by the City Treasurer. Where income relates to the provision of goods and services which are not part of a continuous supply, invoices must be raised no later than 7 days after the completion of a chargeable transaction.
23. To seek to achieve payment by direct debit or standing orders in situations where regular payments are due to the Council. The City Treasurer should approve general arrangements for receiving payment by direct debit or standing orders.
24. To ensure that invoices raised require payments to be made to the Council and that income is coded to the appropriate cost centre. Where appropriate, VAT must be separately identified on both the invoice and the coded income.
25. To advise the City Treasurer of income due to the Council from contracts, leases or any other form of agreement.
26. To agree all debt recovery processes prior to legal action with the City Treasurer and to pursue these promptly.
27. To assist the City Treasurer in collecting debts they have originated and to keep sufficiently detailed records to allow debts to be recovered through legal action and to reclaim VAT payments when bad debts are written off.
28. To request the writing off of irrecoverable debts in accordance with arrangements approved by the City Treasurer (including arrangements determining which provisions or budgets write-offs are to be charged against).
29. To authorise the raising of a credit memo, in consultation with the City Treasurer, if a mistake has been made in raising an invoice.

## FINANCIAL SYSTEMS AND PROCEDURES

30. To require advance payments for goods, services or materials in cases involving income of less than £50 or more than £5,000, wherever possible and practicable. Advance payments should, ideally, be paid directly into the Council's bank account wherever possible. Where this is not possible, payment by Credit or Debit Card should be encouraged. Cash or cheques is acceptable but, where payment is in the form of a cheque, goods or services should not be supplied until after cleared funds have been received.
31. To consult the City Treasurer about any proposal to arrange to accept payments by credit cards, debit cards, switch cards, internet, or similar means.
32. For Treasury Management purposes to notify the City Treasurer of any significant amounts of income due to the Council and the likely timing of such receipts.
33. To notify the City Treasurer of outstanding income relating to the previous financial year as soon as possible after 31st March in line with the timetable determined by the City Treasurer.

### **EXPENDITURE**

#### General/Purchase Orders

34. Formal Purchase Orders must be issued for all work, goods or services to be supplied to the Council, unless a specific exemption to this has been agreed with the City Treasurer. All orders placed should be on an official order form generated by SAP, or in an alternative format through other media specifically authorised by the City Treasurer.
35. Each Purchase Order must conform to any guidelines approved by the Full Council on corporate procurement policies and the standardisation of supplies and materials and wherever possible, corporately agreed contracts must be used.
36. Official purchase orders must not be raised for any personal or private purchases, nor must personal or private use be made of the Council's contracts.
37. Oral purchase orders can only be given in cases of extreme urgency and must be confirmed by an official order, in writing via SAP or other authorised media, as soon as possible.
38. One of the preferred methods of payment by the Council will be by purchase card. Those vendors who do not accept purchase cards will be paid via the Finance Shared Service Centre by cheque or through the banks' automated clearing system (BACS) or other electronic transfers of funds drawn on the Council's bank accounts by the City Treasurer. Any arrangements for making payments by these means must be approved by the City Treasurer.
39. Cheque payments must have the facsimile signature of the City Treasurer and be crossed 'account payee only'.

#### City Treasurer

## FINANCIAL SYSTEMS AND PROCEDURES

40. To approve the form of official purchase orders and associated terms and conditions.
41. To issue guidance relating to the retention and storage of transaction and payment documents.
42. To make payments from the Council's funds on the Chief Officers and Heads of Service's authorisation that the expenditure has been duly incurred in accordance with financial regulations.
43. To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
44. To make payments to contractors on the receipt of architect's certificate, or appropriate Chief Officer and Heads of Service, which must include details of the value of work, retention money, amounts previously certified and amounts now certified. These payments to be made to contractors using authenticated receipts raised by services.
45. To provide advice and on making payments by the most economical means.
46. To enter into agreements for corporate contracts for the supply of telephone exchanges, telephone equipment, answering machines, photocopiers, facsimile machines, cell phones, pagers etc. on behalf of the Council.
47. To enter into contracts for the supply of computer equipment and software on behalf of the Council.

### Chief Officers and Heads of Service

48. To ensure that all purchase orders for goods and services, manual or electronic, are in a form prescribed by the City Treasurer and approved by the City Solicitor.
49. To hold retain and store all evidence relating to transactions and payments in accordance with guidance issued by the City Treasurer.
50. To ensure that purchase orders are only used for goods and services provided to the Council.
51. To ensure that officers do not use official purchase orders to obtain goods or services for their private use.
52. To ensure that only cost centre managers and their substitutes set up in the Council's computerised financial management system (SAP), approve purchase orders. The cost centre manager should be satisfied that the goods and services being ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best value principles should underpin the Council's approach to procurement. Value for money should always be achieved.
53. To ensure that all purchase orders state the nature, quantity, and agreed or estimated costs of the works, goods or services being ordered. The order must also state the address for deliveries.

## FINANCIAL SYSTEMS AND PROCEDURES

54. Ensure that, where it is proposed to place an order with a vendor that is not currently registered as an approved Council vendor, the correct procurement procedures are followed and that a formal request to establish the vendor is submitted to the Corporate Procurement Service for consideration prior to placing any order with the vendor.
55. To ensure that receipt of works, goods and services are verified by placing a "goods receipt confirmation" in the Council's computerised financial management system (SAP - unless the City Treasurer has specifically allowed an exception to this process). A different officer from the person who authorised the purchase order should carry out the confirmation that goods etc have been received. Appropriate entries should then be made in inventories or stores records.
56. To ensure that, where appropriate, invoices are promptly and properly authorised for payment via the Council's computerised financial management system (SAP - or by the operation of other, authorised arrangements). Unless specifically agreed otherwise by the City Treasurer, all invoices should be sent by suppliers/vendors direct to the Council's Finance Shared Service Centre (FSSC).
57. To ensure that all invoices submitted by vendors to the Council for payment contain a valid Purchase Order number. All Purchase Orders must be created before the Council enters into a commitment to pay for any works, goods or services. All works, goods or services supplied to the Council must be formally confirmed as having been received by placing a goods received notification in the Council's computerised financial management system.
58. Payments should not normally be made if the Council has not received goods or services. However, if, in exceptional circumstances, it is deemed necessary to make a payment in advance of goods and services being supplied, agreement of the City Treasurer must be obtained before the payment is made.
59. To ensure that the goods requisitioning process is carried out by a different officer to the cost centre manager who authorises the issue of a purchase order.
60. To ensure that the service maintains, and reviews periodically, a list of cost centre managers and substitutes with appropriate authority within the Council's computerised financial management system.
61. It is acceptable for suppliers to submit invoices to the Finance Shared Service Centre direct in electronic forms via Email. In exceptional circumstances it will be acceptable for Directorate staff to submit invoices in a similar way but any invoices submitted in this manner must be certified and clearly endorsed with a statement that it is a copy and that payment has not already been made.
62. To encourage suppliers of goods and services to receive payment by the most economical means for the Council. However, payments made by direct debit must have the prior approval of the City Treasurer.

## FINANCIAL SYSTEMS AND PROCEDURES

63. To ensure that the service obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice guidelines issued by the City Treasurer, which are in line with best value principles and contained in the Council's contract and procurement rules.
64. To comply with contract procedure rules for putting purchases, where appropriate, out to competitive quotation or tender. These procedures must comply with the Council's separate contract procedure rules covering:
  - General issues
  - Budget identification, specifications and evaluation
  - Exceptions to the competitive process
  - Chief Officers' and Heads of Services' authority and delegation
  - Thresholds for the relevant competitive processes, including EC thresholds
  - Submission, receipt and opening of competitive bids, including late bids
  - Evaluation
  - Post tender negotiation
  - Acceptance of tenders, bids or quotations
  - Contract records, signing and sealing
  - Issues relating to contracts in operation
  - Miscellaneous
65. With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the City Treasurer the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
66. Not to enter into agreements for the supply of telephone exchanges, telephone equipment, answering machines, photocopiers, facsimile machines, cell phones, pagers etc. The City Treasurer is the only officer authorised to do this.
67. Not to enter into agreements for the supply of computer equipment and software. The City Treasurer is the only officer authorised to this. Orders for such equipment should be placed in accordance with corporate procedures following approval by the Information Technology Unit.
68. To ensure that purchase orders are used so that commitments incurred by placing purchase orders are shown against the appropriate budget allocation and taken into account in budget monitoring reports.
69. To notify the City Treasurer of outstanding expenditure relating to the previous financial year as soon as possible after 31st March in line with the timetable determined by the City Treasurer.

## FINANCIAL SYSTEMS AND PROCEDURES

70. To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the City Treasurer (in respect of leasing the City Treasurer and the Executive Member for Finance and Human Resources). This is because of the potential impact on the Council's borrowing powers, to protect the Council against entering into unapproved credit arrangements and to ensure that value for money is being obtained.
71. To notify the City Treasurer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
72. To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with guidance issued by the City Treasurer.

### **IMPREST ACCOUNTS**

#### City Treasurer

73. Imprest Accounts can be established in exceptional circumstances following approval from the City Treasurer.

### **TREASURY MANAGEMENT**

74. The Council has adopted CIPFA's *Code of Practice for Treasury Management in Local Authorities*

#### Full Council

75. Responsible for approving the Treasury Management Policy Statement setting out the matters detailed in paragraph 15 of CIPFA's *Code of Practice for Treasury Management in Local Authorities*.

#### Executive

76. Responsible for proposing to Full Council the Treasury Management Policy Statement.

#### City Treasurer

77. Responsible for reporting to the Executive a proposed Treasury Management Strategy for the coming financial year at or before the start of each financial year.
78. Delegated responsibility for implementing and monitoring the Treasury Management Policy Statement.
79. To control all of the money in the hands of the Council as required by section 151 of the Local Government Act 1972.
80. To ensure that all investments and borrowings of money are made in the name of the Council or in the name of nominees approved by the Full Council.

## FINANCIAL SYSTEMS AND PROCEDURES

81. Delegated responsibility to make all decisions on borrowing, investment or financing on behalf of the Executive, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities and the Council's Treasury Management policy statement and strategy.
82. To ensure that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in the custody of the appropriate Chief Officers and Heads of Service.
83. To act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council.
84. The City Treasurer is responsible for reporting to the Executive twice each financial year on the activities of the treasury management operation and on the exercise of their delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.
85. To monitor the performance of the Treasury Management function including receiving and reviewing the Treasury Management Annual Report and monitoring reports and other reports and to review and scrutinise Treasury Management Performance.

### Chief Officers and Heads of Service

86. To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Executive (or if contrary to the Budget & Policy Framework the approval of Full Council).
87. To notify the City Treasurer's Management section when income due over £100,000 or non-routine payments (ie those not made through the Shared Service Centre including for example CHAPs payments) of over £100,000 are due so that effective cash flow management arrangements can be put in place.

## **BANKING**

### City Treasurer

88. Responsible for the opening, operating and closing of bank accounts in the name of the Council.
89. To ensure that there are satisfactory arrangements in place for the ordering, storage and control all cheques drawn on the Council's main bank accounts.

### Chief Officers and Heads of Service

90. Those who have control of their own bank accounts must work to arrangements approved by the City Treasurer, and must ensure that accounts do not become overdrawn.



**TRUST FUNDS AND FUNDS HELD FOR THIRD PARTIES**

Chief Officers and Heads of Service

91. To arrange for all trust funds to be held, wherever possible, in the name of the Council. All officers acting as trustees by virtue of their official position shall deposit securities, etc. relating to the trust, with the City Treasurer, unless the deed otherwise provides.
92. To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.
93. Where unofficial funds are held on behalf of third parties, to arrange for their secure administration, including an annual audit, and to maintain written records of all transactions in accordance with guidance issued by the City Treasurer.

## **CHAPTER 4 - ASSETS**

### **GENERAL**

#### **City Treasurer**

1. To ensure that an asset register is maintained in accordance with good practice for all property, plant and equipment with a value in excess of £10,000.
2. To receive the information required for accounting, costing and financial records from Chief Officers and Heads of Service.
3. To calculate capital charges and depreciation for all properties and maintain the asset management revenue account.
4. To ensure that property, plant and equipment is valued in accordance with the relevant codes of practice on local authority accounting in the United Kingdom. This is the responsibility of the Head of Corporate Property.

#### **City Solicitor**

5. For the safe custody of title deeds.

#### **Head of Corporate Property**

6. To keep a register of all land and buildings owned by the Council, other than properties managed by Strategic Housing and made available for letting. The register will hold information about: the purpose for which the land/building is held; description; location and ordnance survey map reference; purchase details; the nature of the Council's interest; rents and any other charges payable; restrictive covenants; and any tenancies or other interests granted.
7. Maintain a valuation of all of the land and property assets of the Council. A five-year rolling programme of assets to be valued must be maintained, having been agreed with the City Treasurer and a minimum of 20% of assets must be re-valued each year. Information must also be provided on assets that have substantially declined in value between the rolling programme of valuations. Information on asset valuations, purchases and sales must be provided to the City Treasurer for inclusion in the asset register in accordance with the timetable set by the City Treasurer. These valuations must include the estimated lives of assets.

#### **Director of Housing**

8. To keep a record of properties managed by the Strategic Housing Service and made available for letting - including details of valuations and stock condition etc. as required, and in accordance with Government guidance.

#### **Chief Officers and Heads of Service**

9. To ensure that records and assets are properly maintained and securely held.

## FINANCIAL SYSTEMS AND PROCEDURES

10. To ensure the proper security and safe custody of all buildings and vehicles, equipment, furniture, stock, stores and other property belonging to the Council and under their control.
11. To ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.
12. To ensure that all leased assets are identified, appropriately marked, maintained and a register kept to include location to ensure that they are available for return to lessors at the end of the lease period in accordance with the terms of the lease.
13. To ensure that lessees and other prospective occupiers of Council land are not allowed to take possession of, or enter, the land until a lease or agreement, in a form approved by the Chief Officers and Heads of Service, in consultation with the Head of Valuation and Property Services and City Solicitor, has been established as appropriate.
14. Where land or buildings are surplus to requirements, in consultation with the appropriate executive member, should declare the property surplus, and instruct the Head of Valuation and Property Services to dispose of the property in accordance with Council policy and statutory responsibilities.
15. To ensure that no Council asset is subject to personal use by an employee without proper authorisation.
16. To ensure that the service maintains a register of moveable assets in accordance with arrangements defined by the City Treasurer.
17. To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
18. To consult the City Treasurer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
19. To ensure that a schedule is kept of the officers in their services who hold keys to safes and similar receptacles, and that keys are carried on the person of those responsible at all times; loss of any such keys must be reported to the Head of Internal Audit as soon as possible.
20. To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council in some way.
21. To ensure that the Council's policies on information and internet security are complied with.
22. To ensure that the Council's policies and guidelines on security and crime prevention are followed.

## FINANCIAL SYSTEMS AND PROCEDURES

### INVENTORIES

23. To maintain adequate records of items of furniture, equipment, vehicle and plant, above £200 in value.
24. To carry out an annual check of all items on the inventory in order to verify location, review condition and to take appropriate action in relation to any surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Council.
25. If an item is lost, stolen or disposed of, this must be recorded against the entry in the inventory.
26. The Council's property should only be moved from Council premises for official purposes with the permission of an authorised officer and a record should be kept of all authorised removals.

### Stocks and stores

27. To make arrangements for the care and custody of stocks and stores in their service.
28. To ensure that adequate records are kept and that reasonable levels are maintained which are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.

### Cash

29. To ensure cash holdings on premises are kept to a minimum.
30. To ensure that cash holdings do not exceed the maximum amount set by the City Treasurer.
31. To ensure that cash handling is carried out in accordance with guidance issued by the City Treasurer.
32. To ensure that cash held in any safe does not exceed the amount of the insurance limit for that safe.
33. To notify the City Treasurer and Head of Internal Audit of cash lost or stolen immediately. Stolen cash, which is not covered by insurance, can only be written-off with the agreement of the City Treasurer.
34. To ensure that under no circumstances are personal cheques cashed out of monies held on behalf of the Council.

### Lost Property

35. Any property left on Council premises and regarded as lost must be disposed of in accordance with procedures agreed with the City Treasurer and after consultation with the City Solicitor.

**ASSET DISPOSAL AND WRITE OFF PROCEDURES**

Executive

36. Responsible for approving procedures for writing-off debts as part of the overall control framework of accountability and control.

City Treasurer

37. To issue guidelines representing best practice for the disposal of assets.
38. To ensure appropriate accounting entries are made to remove the value of disposed assets from the Council's records and to include the sale proceeds if appropriate.

Chief Officers and Heads of Services

39. To authorise the disposal and write-off of redundant furniture, fittings, equipment, plant and machinery, and stocks, in accordance with guidance issued by the City Treasurer.
40. Before disposal to check if the asset is subject to leasing arrangements. If the asset is leased, disposal must be in accordance with the terms of the lease.
41. To ensure that any surplus plant, vehicles, furniture or equipment is sold by public tender or auction unless the financial interest of the Council is better served by disposal in some other way.
42. Not to sell assets to an officer of the Council without the approval of the City Treasurer.
43. To ensure that income received for the disposal of an asset is properly banked and coded.

# Section E

## Contract Procurement Rules

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#### **DEFINITIONS**

## A BRIEF GUIDE TO CONTRACT PROCEDURE RULES

These contract procedure rules (issued in accordance with section 135 of the 1972 Local Government Act) are intended to promote good purchasing practice and public accountability and deter corruption.

Officers responsible for purchasing must comply with these contract procedure rules. They lay down minimum requirements and a more thorough procedure may be appropriate for a particular contract. (For example, if Rule 8.1 would normally require that quotes be obtained, it might be appropriate in particular circumstances to seek additional quotations in writing or tender submissions).

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail and fax transmissions as well as hard copy.

Key considerations for officers engaged in purchasing works, goods and services include:

- ❖ Follow the rules if you purchase goods or services or order building work.
- ❖ Take all necessary legal, financial and professional advice.
- ❖ Declare any personal financial interest in a contract. Corruption is a criminal offence.
- ❖ Conduct any Best Value review and appraise the purchasing need.
- ❖ Check whether there is an existing Corporate Contract, the OGC Buying Solutions Contracts, AGMA and other joint purchasing arrangements you can make use of before undergoing a competitive process.
- ❖ Normally allow at least four weeks for submission of bids (not to be submitted by fax or e-mail).
- ❖ Keep bids confidential.
- ❖ Complete a written contract or Council order before the supply or works begin.
- ❖ Identify a contract manager with responsibility for ensuring the contract delivers as intended.
- ❖ Keep records of dealings with suppliers.
- ❖ Assess each contract afterwards to see how well it met the purchasing need and Value for Money requirements.



## SCOPE OF CONTRACT PROCUREMENT RULES

### 1. BASIC PRINCIPLES

All purchasing and disposal procedures must:

- achieve Best Value for public money spent
- be consistent with the highest standards of integrity
- ensure fairness in allocating public contracts
- comply with all legal requirements
- ensure that Non-commercial Considerations do not influence any Contracting Decision
- support the Council's corporate and departmental aims and policies
- comply with the Council's corporate Procurement Strategy and other relevant policies.

### 2. OFFICER RESPONSIBILITIES

#### 2.1 Officers

2.1.1 Officers responsible for purchasing or disposal must comply with these contract procedure rules, Financial Regulations, the Code of Conduct and with all UK and European Union binding legal requirements. Officers must ensure that any agents, Consultants and contractual partners acting on their behalf also comply.

2.1.2 Officers must:

- have regard to the Purchasing Guidance including any relevant Gateway procedures
- check whether a suitable Corporate Contract exists before seeking to let another contract; where a suitable Corporate Contract exists, this must be used unless there is an auditable reason not to
- keep the records required by Rule 6
- take all necessary legal, financial and professional advice.

2.1.3 When any employee either of the authority or of a service provider may be affected by any transfer arrangement, Officers must ensure that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) issues are considered and obtain legal and personnel advice before proceeding with inviting Tenders or Quotations.

2.1.4 Officers must not extend existing contracts without the consent of the Chief Executive and City Treasurer unless the original contract made provision for extension of the original term.

## CONTRACT PROCUREMENT RULES

### 2.2 Chief Officers

#### 2.2.1 Chief Officers must:

- ensure that their staff comply with Rule 2.1
- keep registers of:
  - contracts completed by signature, rather than by the Council's seal (see Rule 18.3) and arrange their safekeeping on Council premises
  - exemptions recorded under Rule 3.2.

2.3 The Officer must comply with the Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the Bribery Act 2010.

2.4 Officers shall comply with s117 of the Local Government Act 1972 in relation to the declaration of interest in contracts.

### 3. EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS

3.1 The Executive has power to waive any requirements within these contract procedure rules for specific projects, and any such decision may be a Key Decision.

3.2 A Chief Officer may, (subject to the Chief Executive and City Treasurer's written approval where the Total Value is likely to exceed £20,000 or where the proposed arrangement is estimated to exceed £20,000 in income to the Council) waive any requirements within these contract procedure rules, where they are satisfied:

- Goods are to be bought at auction and the Chief Executive has approved in writing that the Council's best interest will be served by purchase through auction and has agreed an upper limit for bids
- Only one contractor can provide the goods services or works required and there is no reasonable alternative contractor
- The need for the goods services or works is so urgent that the time needed to comply with the rules would be prejudicial to the Council's interests
- There are value for money reasons justifying a waiver

3.3 Where a proposed contract or agreement is subject to the EU Procedure, a Chief Officer, the City Treasurer and Chief Executive have no delegated powers. No exemption under Rules 3.1 and 3.2 can be used if the EU Procedure applies.

3.4 All exemptions, and the reasons for them, must be recorded by the Chief Officer.

3.5 The City Treasurer may monitor the use of all exemptions.

## **CONTRACT PROCUREMENT RULES**

- 3.6 In order to secure Value for Money, the authority may enter into collaborative procurement arrangements with other local authorities, government departments, public bodies or public service purchasing consortium and may use Framework Agreements let by other local authorities, government departments, public bodies or public service purchasing consortium.
- 3.7 All purchase made via a local authority purchasing and distribution consortium are deemed to comply with these contract procedure rules and no exemption is required. However, purchases subject to the EU Procedure must be let under the EU Procedure, unless the consortium has satisfied this requirement already by letting their contract in accordance with the EU Procedures on behalf of the authority and other consortium members.
- 3.8 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the contract procedure rules of the leading organisation, will be deemed to comply with these contract procedure rules and no exemption under these contract procedure rules is required. However, advice must be sought from the City Solicitor and/or the Head of Corporate Procurement.
- 3.9 The use of e-procurement technology does not negate the requirement to comply with all applicable elements of these contract procurement rules, particularly those relating to competition and Value for Money.

### **4. RELEVANT CONTRACTS**

- 4.1 All Relevant Contracts and Framework Agreements must comply with these contract procedure rules. A Relevant Contract is any arrangement made by, or on behalf of, the authority (including schools) for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:
- the carrying out of construction and engineering works
  - the supply or disposal of goods
  - the hire, rental or lease of goods or equipment and
  - the delivery of services.
- 4.2 Relevant Contracts do not include:
- contracts of employment which make an individual a direct employee of the authority, or
  - agreements regarding the acquisition, disposal, or transfer of land which do not form part of a wider transaction under which the Council procures works, goods or services (for which Financial Regulations shall apply)

## COMMON REQUIREMENTS

### 5. STEPS PRIOR TO PURCHASE

5.1 The Officer must appraise the purchase, in a manner commensurate with its complexity and value, and taking into account any guidance in the Purchasing Guidance, by:

- satisfying themselves that they have the necessary authority to deal with the purchase and that there is budget provision for the purchase
- taking into account the requirements from any relevant Best Value review appraising the need for the expenditure and its priority defining the objectives of the purchase
- assessing the risks associated with the purchase and how to manage them
- considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium
- consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring drafting the terms and conditions that are to apply to the proposed contract
- where the purchase is to be funded from mainstream capital or regarded as capital by the City Treasurer it is submitted to the City Treasurer for comment as soon as practicable
- setting out these matters in writing if the Total Value of the purchase exceeds £30,000.

5.2 and by confirming that:

- there is member or delegated approval for the expenditure and the purchase accords with the approved policy framework and scheme of delegation as set out in the Constitution
- if the purchase is a Key Decision, all appropriate steps have been taken.

## CONTRACT PROCUREMENT RULES

### 6. RECORDS

6.1 Where the Total Value is less than £30,000, the following records must be kept:

- a unique reference number for the contract and the title of the contract
- invitations to quote or tender and Quotations or Tenders
- a record:
  - of any exemptions and the reasons for them
  - of any Contracting Decision and the reasons for it including the evaluation of the Quotation or Tender
- written records of communications with the successful contractor or an electronic record if a written record of the transaction would normally not be produced.

6.2 Where the Total Value exceeds £30,000 the Officer must record:

- a unique reference number for the contract and the title of the contract
- the method for obtaining bids (see Rule 8.1)
- any Contracting Decision and the reasons for it
- any exemption under Rule 3 together with the reasons for it
- the Award Criteria in descending order of importance
- Tender documents sent to and received from Candidates
- pre-tender market research
- clarification and post-tender negotiation (to include minutes of meetings)
- the contract documents
- post-contract evaluation and monitoring
- communications with Candidates and with the successful contractor throughout the period of the procurement.

6.3 Records required by this rule must be kept for six years after the end of the contract.

### 7. ADVERTISING, APPROVED LISTS AND FRAMEWORK AGREEMENTS

#### 7.1 Identifying and Assessing Potential Candidates

7.1.1 Officers shall ensure that, where proposed Relevant Contracts or Framework Agreements, irrespective of their Total Value, might be of

## CONTRACT PROCUREMENT RULES

interest to potential Candidates located in other member states of the EU, a sufficiently accessible advertisement is published. Generally, the greater the interest of the arrangement to potential bidders from other member states, the wider the coverage of the advertisement should be. Examples of where such advertisements may be placed include:

- the Council's website
- portal websites specifically created for contract advertisements
- a local or national newspaper or specialist publication
- national official journals, or the Official Journal of the European Union (OJEU)/ Tenders Electronic Daily (TED) (even if there is no requirement within the EU Procedure).

7.1.2 Officers are responsible for ensuring that all Candidates for a Relevant Contract or Framework Agreement are suitably assessed. The assessment process shall establish that the potential Candidates have sound:

- economic and financial standing
- technical ability and capacity

to fulfil the requirements of the authority.

7.1.3 This shall be achieved in respect of proposed contracts or agreements that are expected to exceed £75,000 by selecting firms from:

- Approved Lists of providers, maintained by the authority or on its behalf, and compiled following responses to a public advertisement
- An open tender process including this assessment, or
- shortlists assessed from expressions of interest in a particular contract submitted in response to a public advertisement.

7.1.4 Public advertisements issued in respect of Rule 7.1.3 above shall reflect the potential degree of interest from Candidates located within other member states of the EU.

## 7.2 Approved Lists

7.2.1 Approved Lists should be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise. Approved Lists cannot be used where the EU Procedure applies.

7.2.2 Chief Officers may draw up in consultation with the Corporate Procurement Service Approved Lists of persons ready to perform contracts to supply

## CONTRACT PROCUREMENT RULES

goods or services of particular types including without limitation on the basis of agreed contract terms and criteria for Shortlisting from the lists.

- 7.2.3 No person may be entered on an Approved List until there has been an adequate investigation into both their financial and their technical ability to perform the contract, unless such matters will be investigated each time bids are invited from that list.
- 7.2.4 Approved Lists must be drawn up after an advertisement inviting applications for inclusion on the list. The advertisement must be placed to secure the widest publicity among relevant suppliers throughout all member states of the EU. Persons may be entered on a list between the initial advertisement and re-advertisement provided the requirements of Rule 7.2.3 are met.
- 7.2.5 The list and Shortlisting criteria must be reviewed at least annually and re-advertised at least every five years. On readvertisement, a copy of the advertisement must be sent to each person on the list, inviting them to reapply. Review means:
- the reassessment of the financial and technical ability and performance of those persons on the list, unless such matters will be investigated each time bids are invited from that list
  - the deletion of those persons no longer qualified, with a written record kept justifying the deletion.
- 7.2.6 All Approved Lists shall be maintained in an open, fair and transparent manner and be open to public inspection.
- 7.2.7 A register of pre-qualified contractors and Consultants maintained by or on behalf of central government (e.g. Constructionline) will be deemed to be an Approved List for the purpose of these contract procedure rules and shall not be subject to the requirements of Rules 7.2.2 to 7.2.6 inclusive.

### 7.3 Framework Agreements

- 7.3.1 The term of a Framework Agreement which is subject to the EU Procedure must not exceed four years and, while an agreement may be entered into with one provider, where an agreement is concluded with several organisations, there must be at least three in number
- 7.3.2 Contracts based on Framework Agreements may be awarded by either:
- applying the terms laid down in the Framework Agreement (where such terms are sufficiently precise to enable the authority to identify the provider which offers the best value for money for the authority's requirements) without reopening competition, or where this is not the case

## CONTRACT PROCUREMENT RULES

- by holding a mini competition in accordance with the terms and conditions of the Framework Agreement.



## CONDUCTING PURCHASE AND DISPOSAL

### 8. COMPETITION REQUIREMENTS FOR PURCHASE, DISPOSAL AND PARTNERSHIP ARRANGEMENTS

The Officer must calculate the Total Value.

The following procedures apply where there are no other procedures which take precedence. Other procedures may include agency agreements with government. If in doubt, Officers must seek the advice of the City Solicitor.

#### 8.1 Purchasing – Competition Requirements

8.1.1 Subject to Rule 8.1.2 where the Total Value for a purchase is within the values in the first column below, the Award Procedure in the second column must be followed. Shortlisting shall be done by the persons specified in the third column.

Total Value	Award Procedure	Shortlisting
Up to £2,000	One oral Quotation (confirmed in writing where the Total Value exceeds £500)	Officer
£2,001 – £30,000	At least three written Quotations	Officer and Line Manager
£30,001 - £75,000	Invitation to Tender by advertisement/Approved List to at least three Candidates	Officer and Line Manager
£75,001–EU Threshold	Invitation to Tender by advertisement/Approved List to at least three Candidates	Officer, Line Manager and Head of Corporate Procurement
Above EU Threshold	EU Procedure or, where this does not apply, (such as where Part B Services under the EU Procedure), Invitation to Tender by advertisement/list to at least four Candidates	Consult the City Solicitor – see Rule 8.1.4

**\*see Rule 7.2 for for Approved Lists**

8.1.2 Irrespective of Rule 8.1.1 Relevant Contracts and Framework Agreements that are subject to European Union grant funding requirements shall be advertised in accordance with published guidance, ERDF National Procurement Requirements (ERDF-GN-1-004)

## CONTRACT PROCUREMENT RULES

8.1.3 Where it can be demonstrated that there are insufficient suitably qualified Candidates to meet the competition requirement, all suitably qualified Candidates must be invited.

8.1.4 An Officer must not enter into separate contracts nor select a method of calculating the Total Value in order to minimise the application of these contract procedure rules.

8.1.5 Where the Total Value exceeds £30,000 the Head of Corporate Procurement should be consulted prior to the commencement of the procedure and, where the EU Procedure is required, the Officer shall consult the City Solicitor to determine the method of conducting the purchase.

### 8.2 Assets for Disposal

8.2.1 Assets for disposal must be sent to public auction except where the City Treasurer is satisfied that better Value for Money is likely to be obtained by inviting Quotations or Tenders. (These may be invited by advertising on the Council's internet site.)

### 8.3 Providing Services to External Purchasers

8.3.1 The City Treasurer must be consulted where contracts to work for organisations other than the authority are contemplated and any bid, tender and contract for work shall be made in accordance with the Financial Regulations.

### 8.4 Collaborative and Partnership Arrangements

8.4.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must follow these contract procedure rules. If in doubt, Officers must seek the advice of the City Solicitor and the Corporate Procurement Service.

### 8.5 The Appointment of Consultants to Provide Services

8.5.1 Consultant architects, engineers, surveyors and other professional Consultants shall be selected and commissions awarded in accordance with the procedures detailed within these contract procedure rules and as outlined below.

Total Value	Award Procedure	Shortlisting
Up to £30,000	One oral Quotation (confirmed in writing where the Total Value exceeds £2,000)	Officer

## CONTRACT PROCUREMENT RULES

£30,001 – EU Threshold	Three written Quotations	Officer and Line Manager
Above EU Threshold	EU Procedure or, where this does not apply, (such as where Part B Services under the EU Procedure), Invitation to Tender by advertisement/Approved List to at least four and no more than six Candidates	Consult the City Solicitor see Rule 8.1.4

### \*see rule 7.2 for Approved Lists

- 8.5.2 Irrespective of Rule 8.5.1 Relevant Contracts and Framework Agreements that are subject to European Union grant funding requirements shall be advertised in accordance with published guidance, ERDF National Procurement Requirements (ERDF–GN-1-004)
- 8.5.3 The engagement of a Consultant shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a formal letter or contract of appointment.
- 8.5.4 Records of consultancy appointments shall be maintained in accordance with Rule 6.
- 8.5.5 Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the City Treasurer for the periods specified in the respective agreement.
- 8.5.6 The instruction of external legal advisers must only be carried out by the City Solicitor and the instruction of counsel shall not be subject to the requirements of Rules 8.5.1 – 8.5.4 (inclusive)

## 9. PRE-TENDER MARKET RESEARCH AND CONSULTATION

9.1 The Officer responsible for the purchase:

- may consult potential suppliers prior to the issue of the Invitation to Tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential Candidate, but
- must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential Candidates or distort competition.

## 10. STANDARDS AND AWARD CRITERIA

## CONTRACT PROCUREMENT RULES

- 10.1 The Officer must ascertain the standards necessary to properly describe the subject matter of the contract having regard to any relevant British, European or international standards. The City Solicitor must be consulted if it is proposed to use standards other than European standards.
- 10.2 The Officer must define Award Criteria that are appropriate to the purchase and designed to secure an outcome giving Value for Money for the authority. The basic criteria shall be one of the following:
- 'lowest price' where payment is to be made by the authority
  - 'highest price' if payment is to be received, or
  - 'most economically advantageous', where considerations other than price also apply.

If the last criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations. These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters. Officers shall have regard to the Purchasing Guidance when defining the Award Criteria.

- 10.3 Award Criteria must not include:
- Non-commercial Considerations that are prohibited under UK and European Union statutory requirements
  - matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement.

## 11. INVITATIONS TO TENDER/QUOTATIONS

- 11.1 The Invitation to Tender shall state that the Council reserves the right to reject a Tender that is not received by the date and time stipulated in the Invitation to Tender. No Tender delivered in contravention of this requirement shall be considered without the City Solicitor's prior approval and shall not be considered under any circumstances when it is received after the other Tenders have been opened.
- 11.2 All Invitations to Tender shall include the following:
- 11.2.1 A specification that describes the authority's requirements in sufficient detail to enable the submission of competitive offers.
- 11.2.2 A requirement for tenderers to declare that the Tender content, price or any other figure or particulars concerning the Tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).

## CONTRACT PROCUREMENT RULES

- 11.2.3 A requirement for tenderers to complete fully and sign all Tender documents including a form of Tender and certificates relating to canvassing and non-collusion.
  - 11.2.4 Notification that Tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense.
  - 11.2.5 A description of the Award Procedure and, unless defined in a prior advertisement, a definition of the Award Criteria in objective terms and if possible in descending order of importance.
  - 11.2.6 Unless the Tender is sought in accordance with an electronic tendering process approved by the City Treasurer and City Solicitor a statement that any Tenders submitted by fax or other electronic means shall not be considered
- 11.3 All Invitations to Tender or Quotations must specify the goods, service or works that are required, together with the terms and conditions of contract that will apply (see Rule 18).
  - 11.4 The Invitation to Tender or Quotation may state that the Council is not bound to accept any Quotation or Tender.

### **12. SHORTLISTING**

- 12.1 Any Shortlisting must have regard to the financial and technical standards relevant to the contract and the Award Criteria. Special rules apply in respect of the EU Procedure.
- 12.2 The Officers responsible for Shortlisting are specified in Rule 8.1.1
- 12.3 Where Approved Lists are used, Shortlisting may be done by the Officer in accordance with the Shortlisting criteria drawn up when the Approved List was compiled (see Rule 7.2). However, where the EU Procedure applies, Approved Lists may not be used.

### **13. SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS**

- 13.1 Candidates must be given an adequate period in which to prepare and submit a proper Quotation or Tender, consistent with the complexity of the contract requirement. Normally at least four weeks should be allowed for submission of Tenders. The EU Procedure lays down specific time periods (see guidance in the Purchasing Guidance).
- 13.2 All Tenders must be returned in accordance with the Invitation to Tender.
- 13.3 Tenders received by fax or other electronic means (e.g. email) must be rejected, unless they have been sought in accordance with an electronic tendering process approved by the City Treasurer and City Solicitor.
- 13.4 The Officer must not disclose the names of Candidates to any staff involved in the receipt, custody or opening of Tenders.

## **CONTRACT PROCUREMENT RULES**

- 13.5 The Officer shall be responsible for the safekeeping of Tenders until the appointed time of opening. Each Tender must be:
- suitably recorded so as to subsequently verify the date and precise time it was received
  - adequately protected immediately on receipt to guard against amendment of its contents
  - recorded immediately on receipt in the Tender Record Log.
- 13.6 The Officer must ensure that all Tenders are opened at the same time when the period for their submission has ended. Tenders must be opened in the presence of two officers, independent of the Officer.
- 13.7 Upon opening, a summary of the main terms of each Tender must be recorded in the Tender Record Log.
- 13.8 Quotations and Tenders received after the specified closing date should be held unopened until an order has been placed. Once an order has been placed the Chief Officer shall inform the tenderer that their tender or quotation was disqualified from consideration by being received after the closing date.

### **14. CLARIFICATION PROCEDURES**

- 14.1 Providing clarification of an Invitation to Tender to potential or actual Candidates or seeking clarification of a Tender, whether in writing or by way of a meeting, is permitted. However, discussions with tenderers after submission of a Tender and before the award of a contract with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) must be the exception rather than the rule. In particular, they must not be conducted in an EU Procedure where this might distort competition, especially with regard to price.

### **15. EVALUATION**

- 15.1 Apart from the debriefing required or permitted by these contract procedure rules, the confidentiality of Quotations, Tenders and the identity of Candidates must be preserved at all times and information about one Candidate's response must not be given to another Candidate.
- 15.2 Contracts must be evaluated and awarded in accordance with the Award Criteria. During this process, Officers shall ensure that submitted Tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.
- 15.3 The arithmetic in compliant Tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their Tender. Alternatively, if the rates in the Tender, rather than the overall price, were stated within the Tender invitation as being dominant, an amended Tender price may be requested to accord with the rates given by the tenderer.

### **16. POST TENDER NEGOTIATIONS**

## CONTRACT PROCUREMENT RULES

- 16.1 Post-tender negotiations under the EU Procedure can only be undertaken on the grounds allowing for such specified in the EU Procedure. For all other procedures if post-tender negotiations are necessary after a single-stage Tender or after the second stage of a two-stage Tender, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the most economically advantageous Tender and after all unsuccessful Candidates have been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the Tender documents. Officers appointed by the Chief Officer to carry out post-tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.
- 16.2 Post-tender negotiation must only be conducted in accordance with the guidance issued by the City Solicitor who, together with the Corporate Procurement Service, must be consulted wherever it is proposed to enter into post-tender negotiation. Negotiations must be conducted by a team of at least two officers, one of whom must be from a division independent to that leading the negotiations.
- 16.3 Where post-tender negotiation would result in a fundamental change to a Relevant Contract or Framework Agreement (such as to the specification or price) which would be likely to distort competition the contract or agreement must not be awarded but re-tendered.

### **17. AWARD OF CONTRACTS AND FRAMEWORK AGREEMENTS AND DEBRIEFING CANDIDATES**

- 17.1 Chief Officers may accept Quotations and Tenders received in respect of proposed contracts and Framework Agreements, provided they have been sought and evaluated fully in accordance with these contract procedure rules and, in respect of proposed contracts and Framework Agreements that are expected to exceed £250,000, (relating to expenditure or income) with the approval of the Chief Executive and City Treasurer.
- 17.2 For contracts and Framework Agreements subject to the EU Procedure, the Officer must notify all Candidates simultaneously and as soon as possible of the intention to award the contract or Framework Agreement to the successful Candidate and provide information required by the EU Procedure specifying the name(s) of the successful Candidate(s), the award criteria and the reasons for the decision including the score of the Candidate being debriefed and the successful Candidate(s) and the characteristics and relative advantages of the successful tender. The Officer must provide unsuccessful Candidates with a period of at least ten days in which to challenge the decision before the Officer awards the contract or Framework Agreement. If the decision is challenged by an unsuccessful Candidate then the Officer shall not award the contract or Framework Agreement and shall immediately seek the advice of the City Solicitor. The requirement to notify candidates of the intention to award a contract or Framework Agreement in this Rule 17.2 does not apply to:
- contracts and Framework Agreements that are not subject to the EU Procedure (such as Part B Services under the EU Procedure, or where value is under the EU threshold) and

## CONTRACT PROCUREMENT RULES

- contracts subsequently awarded and called off based on a Framework Agreement that was let in accordance with the EU Procedure

17.3 If a Candidate requests in writing the reasons for a Contracting Decision, the Officer must give in writing the name(s) of the successful Candidate(s), the award criteria and the reasons for the decisions including the score of the candidate being debriefed and the successful Candidate(s) and the characteristics and relative advantages of the successful tender within 15 days of the request. If requested, the Officer must also give the debriefing information referred to in Rule 17.2 above to Candidates who were unsuccessful in a pre-qualification Shortlisting process.



## CONTRACT AND OTHER FORMALITIES

### 18. CONTRACT DOCUMENTS

#### 18.1 Relevant Contracts

18.1.1 All Relevant Contracts that exceed £30,000 shall be in writing.

18.1.2 All Relevant Contracts, irrespective of value, shall clearly specify:

- what is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done)
- the provisions for payment (i.e. the price to be paid and when)
- the time, or times, within which the contract is to be performed
- the provisions for the Council to terminate the contract.

18.1.3 The Council's standard terms and conditions or standard contract forms issued by a relevant professional body must be used wherever possible.

18.1.4 In addition, every Relevant Contract of purchase over £30,000 must also state clearly as a minimum:

- that the contractor may not assign or sub-contract without prior written consent
- any insurance requirements
- health and safety requirements
- data protection requirements, if relevant
- race relations requirements
- Disability Discrimination Act requirements
- Freedom of Information Act requirements
- a right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant.

18.1.5 The formal advice of the City Solicitor must be sought for the following Relevant Contracts or Framework Agreements:

- where the Total Value exceeds £75,000
- those involving leasing arrangements
- where it is proposed to use a supplier's own terms or
- those that are complex in any other way.

## CONTRACT PROCUREMENT RULES

### 18.2 Contract Formalities

18.2.1 Agreements shall be completed as follows:

Total Value	Method of completion	By
Up to £30,000	signature	Authorised Signatory
£30,001 - £75,000	Two signatures or sealing	Two Authorised Signatories (see Rule 18.2.3) or see Rule 18.3
Above £75,000	sealing	See Rule 18.3

18.2.2 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the City Solicitor.

18.2.3 The Officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

### 18.3 Sealing

18.3.1 Where contracts or agreements are completed by each side adding their formal seal, such contracts shall be executed by the fixing of the Council's seal, and must be witnessed by an Authorised signatory.

18.3.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal.

18.3.3 A contract must be sealed where:

- the Council may wish to enforce the contract more than six years after its end
- the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services
- there is any doubt about the authority of the person
- signing for the other contracting party, or
- the Total Value exceeds £75,000.

## CONTRACT PROCUREMENT RULES

### 19. BONDS AND PARENT COMPANY GUARANTEES

19.1 The Officer must consult the City Treasurer about whether a Parent Company Guarantee is necessary when a Candidate is a subsidiary of a parent company and:

- the Total Value exceeds £250,000, or
- award is based on evaluation of the parent company, or
- there is some concern about the stability of the Candidate.

19.2 The Officer must consult the City Treasurer about whether a Bond is needed:

- where the Total Value exceeds £1,000,000, or
- where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the Candidate.

## CONTRACT MANAGEMENT

### **20. MANAGING CONTRACTS**

- 20.1 Heads of Service in sponsoring departments are to name contract managers for all new contracts. All contracts must have a named Council contract manager for the entirety of the contract.
- 20.2 Contract managers must follow the procedures set out in the Council's Purchasing Guidance.
- 20.3 Purchases shall not be made outside the scope of an existing contract Chief Executive and without the City Treasurer's prior consent.

### **21. RISK ASSESSMENT AND CONTINGENCY PLANNING**

- 21.1 A business case must be prepared for all procurements with a potential value over the EU Threshold. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.
- 21.2 For all contracts with a value of over £75,000, contract managers must consider maintaining a risk register during the contract period undertake appropriate risk assessments and for identified risks ensure contingency measures are in place.

### **22. CONTRACT MONITORING, EVALUATION AND REVIEW**

- 22.1 All contracts which have a value higher than the EU Threshold limits, and which are High Risk, are to be subject to monthly formal review with the contractor. The review may be conducted quarterly if permitted by the City Treasurer.
- 22.2 For all contracts with a value higher than the EU Threshold limits, and which are High Risk, an annual report must be submitted to the City Treasurer.
- 22.3 The City Treasurer may require that a Council-developed Gateway review process may be applied to all contracts deemed to be High Risk, High Value, or High Profile. This process must be applied at key stages of major procurements.
- 22.4 During the life of the contract, the Officer must monitor in respect of:
- Performance
  - compliance with specification and contract
  - cost
  - any Value for Money requirements
  - user satisfaction and risk management.

## CONTRACT PROCUREMENT RULES

### DEFINITIONS

Approved List	A list drawn up in accordance with Rule 7.2.
Authorised Signatory	An officer authorised by the City Solicitor in accordance with the Council's constitution to sign a contract or the Council's seal.
Award Criteria	The criteria by which the successful Quotation or Tender is to be selected (see further Rules 10 and 11.2.5).
Award Procedure	The procedure for awarding a contract as specified in Rules 8, 10 and 15.
Best Value	<p>The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council.</p> <p>This terminology has now in many instances been superceded by Value for Money.</p>
Candidate	Any person who asks or is invited to submit a Quotation or Tender.
Chief Officers	The Officers defined as such in the Constitution.
City Solicitor	As identified in the Constitution
City Treasurer	The Council's City Treasurer or such other Officer as may be designated City Treasurer by the Council.
Code of Conduct	The code of conduct for employees as set out from time to time in the Constitution.
Commercial Board	The group of Officers that meets regularly to consider procurement issues on a corporate basis.
Committee	A committee which has power to make decisions for the Council, for example a joint committee with another local authority, but not a scrutiny committee.
Constitution	The constitutional document approved by the Council of which those Contract Procedure Rules form part issued under Section 37 of the Local Government Act 2000.
Consultant	Specialist advisers engaged to provide services to the Council.

## CONTRACT PROCUREMENT RULES

Contracting Decision	<p>Any of the following decisions:</p> <ul style="list-style-type: none"> <li>• composition of Approved Lists</li> <li>• withdrawal of Invitation to Tender</li> <li>• whom to invite to submit a Quotation or Tender</li> <li>• Shortlisting</li> <li>• award of contract or Framework Agreement</li> <li>• any decision to terminate a contract.</li> </ul>
Corporate Contract	A contract let by the Council's Corporate Services Department to support the Council's aim of achieving Value for Money.
Corporate Procurement Service	The Council's central procurement unit charged with providing strategic direction and advice to secure Value for Money in the Council's procurement activities.
EU Procedure	The procurement procedure required by the EU for goods, works and certain categories of services where the Total Value exceeds the EU Threshold.
EU Threshold	The value at which the EU public procurement directives apply.
European Economic Area	The members of the European Union, and Norway, Iceland and Liechtenstein
Executive	The Council's Executive as defined in the Constitution.
Financial Regulations	The financial regulations outlining Officer responsibilities for financial matters prepared by the City Treasurer and becoming part of the Constitution.
Framework Agreement	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Government Procurement Agreement	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.

## CONTRACT PROCUREMENT RULES

Head of Corporate Procurement	The officer with responsibility for leading the Corporate Procurement Service.
High Profile	A high-profile purchase is one that could have an impact on functions integral to Council service delivery should it fail or go wrong.
High Risk	A high-risk purchase that is in the opinion of the City Treasurer one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.
High Value	A high-value purchase is where the value exceeds the EU Threshold values.
Invitation to Tender	Invitation to tender documents in the form required by these contract procedure rules.
Key Decision	Decisions that are defined as key decisions in the Access to Information Rule in Part 4 of the Constitution.
Lead Executive Member	A member of the Executive to whom political responsibility is allocated in respect of specified functions.
Line Manager	The Officer's immediate superior or the Officer designated by the Chief Officer to exercise the role reserved to the line manager by these contract procedure rules.
Nominated Suppliers and Sub-contractors	Those persons specified in a main contract for the discharge of any part of that contract.
Non-commercial Considerations	<p>(a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters').</p> <p>(b) Whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only.</p> <p>(c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.</p> <p>(d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes').</p>

## CONTRACT PROCUREMENT RULES

	<p>(e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors.</p> <p>(f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees.</p> <p>(g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support.</p> <p>(h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959.</p> <p>Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply.</p>
Officer	The Officer designated by the Chief Officer to deal with the contract in question.
<i>Parent Company Guarantee</i>	A contract which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.
Priority Services	Those services required to be tendered as defined in the EU public procurement directives.
Procurement Strategy	The document setting out the Council's approach to procurement and key priorities for the next few years.
Purchasing Guidance	The guidance documents issued from time to time by the City Treasurer that support the implementation of these contract procurement rules. The guide is available on the Council's intranet.
Quotation	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Relevant Contract	Contracts to which these contract procedure rules apply (see Rule 4).
Shortlisting	The process of selecting Candidates who are to be invited to quote or bid or to proceed to final evaluation.



## CONTRACT PROCUREMENT RULES

Supervising Officer	The Line Manager's immediate superior.
Tender	A Candidate's proposal submitted in response to an Invitation to Tender.
Tender Record Log	The log kept by the director of resources to record details of Tenders (see Rule 13.5).
Total Value	<p>The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows:</p> <ul style="list-style-type: none"> <li>(a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period</li> <li>(b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months</li> <li>(c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48</li> <li>(d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result</li> </ul> <p>For Nominated Suppliers and Sub-Contractors, the total value shall be the value of that part of the main contract to be fulfilled by the Nominated Supplier or Sub-Contractor.</p>
TUPE  Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No.246)	<p>Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private contractor, local authority in-house team) to another (e.g. following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.</p>
Value for Money	<p>Value for money is not the lowest possible price; it is the most economically advantageous proposal that combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.</p>

# **PART 6**

## **CODES AND PROTOCOLS**

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**Section A:** Code of Conduct for Members

**Section B:** Planning Protocol for Members and Officers

**Section C:** Use of Resources Guidance for Members

**Section D:** Gifts and Hospitality Guidance for Members

**Section E:** Code of Conduct for Employees

**Section F:** Member / Officer Relations Protocol

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# Section A

## Code of Conduct for Members

# CODE OF CONDUCT FOR MEMBERS

## SECTION A: CODE OF CONDUCT FOR MEMBERS

(ADOPTED BY THE COUNCIL ON 11 JULY 2012)

### Pre-amble to Code of Conduct for Members

#### 1. Introduction

The Council is determined to provide excellent local government for the people of the City. It promotes and maintains high standards of conduct by Members and Co-opted Members and has adopted a Code of Conduct for Members, in line with its obligations under section 27(2) of the Localism Act 2011.

#### 2. General Principles of Conduct for Members and Co-opted Members

The Code and the Guidance are based on the following General Principles.

##### 2.1 General Principles

Members and Co-opted Members must behave according to the highest standards of personal conduct in everything they do as a Member. In particular they must observe the following principles of conduct, some of which are set out in law.

##### 2.2 Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

##### 2.3 Honesty and Integrity

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

##### 2.4 Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

##### 2.5 Accountability

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-

## **CODE OF CONDUCT FOR MEMBERS**

operate fully and honestly with any scrutiny appropriate to their particular office.

### **2.6 Openness**

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

### **2.7 Personal Judgement**

Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

### **2.8 Respect for Others**

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

### **2.9 Duty to Uphold the Law**

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

### **2.10 Stewardship**

Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

### **2.11 Leadership**

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

## **3. Training**

3.1 Each Member must attend training on the Code of Conduct/ethical standards, in addition to any current requirements to receive training for specific Committees, for example Planning or Licensing Committees.

## CODE OF CONDUCT FOR MEMBERS

# THE CODE OF CONDUCT

### Part 1 General provisions

#### 1. Introduction and interpretation

- 1.1 This Code applies to you as a Member of the Council.
- 1.2 It is your responsibility to comply with this Code. Failure to do so may result in a sanction being applied by the Council. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and /or disqualification from office for a period of up to 5 years. In this Code - “meeting” means any meeting of:
- (a) the Council;
  - (b) any of the Council’s Committees or Sub-Committees, Joint Committees or Joint Sub-Committees;
  - (c) the Executive or any committee of the Executive.
- 1.3 “Member” includes a Co-opted Member and an Appointed Member.

#### 2. Scope

- 2.1 Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you are acting as a Member or Co-opted Member of the Council or an Appointed Member of a Joint Committee, and, references to your official capacity are construed accordingly.
- 2.2 This Code does not have effect in relation to your conduct other than where it is in your official capacity.
- 2.3 Where you act as a representative of the Council—
- (a) on another relevant authority, including the Greater Manchester Combined Authority, the Greater Manchester Fire & Rescue Authority and the Greater Manchester Waste Disposal Authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

#### 3. General obligations

- 3.1 You must not:

## CODE OF CONDUCT FOR MEMBERS

- (a) do anything which may knowingly cause the Council to breach the Equality Act 2010;
- (b) bully or be abusive to any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be:
  - (i) a complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct; or

- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

### 4. You must not:

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is:
    - (a) reasonable and in the public interest; and
    - (b) made in good faith and in compliance with the reasonable requirements of the Council; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

### 5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

### 6. You:

- (a) must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and



## CODE OF CONDUCT FOR MEMBERS

- (b) must, when using or authorising the use by others of the resources of your authority:
    - (i) act in accordance with the Council's reasonable requirements; and
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by
- (a) The Council's Chief Finance Officer; or
  - (b) The Council's Monitoring Officer,
- where that officer is acting pursuant to his or her personal statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## CODE OF CONDUCT FOR MEMBERS

### Part 2 - Disclosable pecuniary interests

#### 8. Notification of disclosable pecuniary interests

8.1 Within 28 days of becoming a Member or Co-opted Member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

8.2 *If you are an existing Member or Co-opted Member on 11 July 2012, Council Procedure Rule 29.2 requires you to notify the Monitoring Officer of disclosable pecuniary interests within 2 months of the adoption of the Code.*

8.3 A 'disclosable pecuniary interest' is an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in the table below.

8.4 "Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the 12 month period prior to notification of the interest in respect of any expenses incurred by you in carrying out duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation Act) 1992 (a).
Contracts	Any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest) and the Council -
Land	(a) under which goods or services are to be provided or works are to be executed: and (b) which has not been fully discharged.
Licences	Any beneficial interest in land which is within the area of Manchester City Council.
Corporate Tenancies	Any licence (alone or jointly with others) to occupy land in the area of Manchester City Council for a month or longer.
Securities	Any tenancy where (to your knowledge) - (a) the landlord is the Council: and  (b) the tenant is a body in which you or your partner has a beneficial interest.

## CODE OF CONDUCT FOR MEMBERS

	<p>Any beneficial interest in securities of a body where -</p> <p>(a) that body (to your knowledge) has a place of business or land in the area of Manchester City Council; and</p> <p>(b) either -</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>
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For the purposes of the above table -

- (a) "a body in which you or your partner has a beneficial interest" means a firm in which you or your partner is a partner or a body corporate of which you or your partner is a director, or in the securities of which you or your partner has a beneficial interest.
- (b) "director" includes a member of the committee of management of an industrial and provident society.
- (c) "land" excludes an easement, interest or right in or over land which does not carry with it a right for you or your partner (alone or jointly) to occupy the land or receive income, and
- (d) "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

### **9 Non participation in case of disclosable pecuniary interest**

- 9.1 If you are present at a meeting and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,
- 1. You must not participate in any discussion of the matter at the meeting.
  - 2. You must not participate in any vote taken on the matter at the meeting.
  - 3. If the interest is not registered, you must disclose the interest to the meeting.

## CODE OF CONDUCT FOR MEMBERS

4. *If the interest is registered, you are also required by Council Procedure Rule 29.3 and Executive Procedure Rule 3 to disclose it to the meeting.*
  5. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
  6. *You are also required by Council Procedure Rule 30 and Executive Procedure Rule 4 to withdraw from the room of the meeting whilst the matter is being considered.*
- 9.2 Where an Executive Member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the Executive Member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

### 10 Offences

- 10.1 It is a criminal offence to
- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election.
  - Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register.
  - Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting.
  - Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest.
  - As an Executive Member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
  - As an Executive Member discharging a function acting alone, and having a disclosable pecuniary interest in a matter, taking any steps in relation to such a matter.
  - Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.
- 10.2 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

## CODE OF CONDUCT FOR MEMBERS

### Part 3 - Other interests

#### 11 Notification of personal interests

11.1 In addition to the disclosable pecuniary interests notifiable under the Localism Act 2011, you must -

- (a) within 2 months of this Code being adopted by the Council in the case of existing Members or Co-Opted Members as on 11 July 2012; or
- (b) within 28 days of your election or appointment to office (where that is later),

notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the categories set out in paragraph 11(2) below for inclusion in the register of interests.

11.2 You have a personal interest in any business of your authority where it relates to or is likely to affect -

- (a) any body of which you are in a position of general control or management and to which you are appointed or nominated by your authority;
- (b) any body -
  - (i) exercising functions of a public nature;
  - (ii) directed to charitable purposes; or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are in a position of general control or management;

- (c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £100.

#### 12 Disclosure of interests

12.1 Subject to paragraphs 12.4 to 12.7, where you have a personal interest described in paragraph 11.2 above or in paragraph 12.2 below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

12.2 You also have a personal interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well being or financial position of a *relevant person* to a greater extent than

## CODE OF CONDUCT FOR MEMBERS

the majority of other council tax payers, ratepayers or inhabitants of the electoral ward, affected by the decision.

- 12.3 In paragraph 12.2, a *relevant person* is -
- (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) any body of a type described in paragraph 11.2(a) or (b).
- 12.4 Where you have a personal interest in any business of the Council which relates to or is likely to affect a body described in paragraph 11.2(a) or 11.2(b)(i), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 12.5 Where you have a personal interest in any business of the Council of the type mentioned in paragraph 11.2(c), (gifts and hospitality) you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 12.6 Where you have a personal interest but, by virtue of paragraph 16, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- 12.7 Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

### **13 Non participation in case of prejudicial interest**

- 13.1 Where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business -
- (a) affects your financial position or the financial position of a person or body described in paragraph 12.3 ;or
  - (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 12.3.

## CODE OF CONDUCT FOR MEMBERS

- 13.2 Subject to paragraphs 13.3 and 13.4, where you have a prejudicial interest in any business of your authority -
- (a) You must not participate in any discussion of the matter at the meeting.
  - (b) You must not participate in any vote taken on the matter at the meeting.
  - (c) You must disclose the interest to the meeting.
  - (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
  - (e) *You are also required by Council Procedure Rule 30 and Executive Rule 4 to withdraw from the room of the meeting whilst the matter is being considered.*
- 13.3 Where you have a prejudicial interest in any business of the Council, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
- 13.4 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of your authority in respect of—
- (a) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (b) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay; and
  - (c) any ceremonial honour given to members.
- 13.5 Where, as an Executive Member, you may discharge a function alone, and you become aware of a prejudicial interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

## CODE OF CONDUCT FOR MEMBERS

### 14 Interests arising in relation to Overview and Scrutiny Committees

In any business before an Overview and Scrutiny Committee of the Council (or of a Sub-Committee of such a Committee) where—

- (a) that business relates to a decision made (whether implemented or not) or action taken by the Executive or another of the authority's Committees, Sub-Committees, Joint Committees or Joint Sub-Committees; and
- (b) at the time the decision was made or action was taken, you were a member of the Executive, Committee, Sub-Committee, Joint Committee or Joint Sub-Committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,

you may attend the meeting of the Overview and Scrutiny Committee for the purpose of explaining the reasons for the decision, or answering questions or giving evidence relating to the business, but you cannot participate otherwise in the discussion or in any vote on the matter.



## **CODE OF CONDUCT FOR MEMBERS**

### **Part 4 - General Matters relating to Parts 2 and 3**

#### **15 Register of interests**

Subject to paragraph 16 any disclosable pecuniary interests or personal interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

#### **16 Sensitive interests**

This paragraph applies where you consider that disclosure of the details of a disclosable pecuniary interest or a personal interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees. In these circumstances, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

#### **17 Dispensations**

The Council may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest or a prejudicial interest.

## **Section B**

# **Planning Protocol for Members and Officers**

**PLANNING PROTOCOL FOR MEMBERS AND OFFICERS**

**Introduction**

1. The aim of this Planning Protocol is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
2. In this Planning Protocol wherever references are made to the Council's "Planning Committees", this includes the Planning and Highways Committee and the Wythenshawe Area Committee. No member should be appointed to the Planning Committees unless they have agreed in writing to take part in training in planning matters, including the operation of this Planning Protocol. No member appointed to a Planning Committee should participate in the business of the Planning Committee until they have attended training in planning matters.
3. In this Planning Protocol, the expression "planning matter" means any planning application, development, development proposal or plan within the City of Manchester or which materially affects the City and includes the enforcement of planning control. This Planning Protocol sets out the practices and procedures that members and officers of the Council should follow whenever they are involved in planning matters in order to comply with the Code of Conduct for Members (as adopted by the Council on 11 July 2012) ('the Code') and the Employee Code of Conduct, respectively.
4. The sections of this Planning Protocol relating to the declaration of interests also apply to members who are not members of the Planning Committee. In making written representations to Planning Committee all members must serve only the public interest and should never seek to improperly confer an advantage or disadvantage on any person.
5. Planning affects land and property interests, including the value of land and the quality of the environment. Decisions affect people's daily lives and the private interests of individuals, landowners and developers. The role of the planning system is to regulate the use and development of land in the public interest. Accordingly planning decisions must be seen to be impartial and properly justified. The planning system can only operate effectively if there is trust among the various stakeholders: the public, applicants, developers, members and officers.
6. Failure to abide by this Planning Protocol may place the Council at risk of proceedings concerning the legality or maladministration of the related decision.

## PLANNING PROTOCOL FOR MEMBERS

### Role and conduct of members and officers

7. Members and officers have different but complementary roles. Both serve the public but members are accountable to the electorate and officers accountable to the Council as a whole.
8. The main duty of members is to represent their constituents as a whole, including those who did not vote for them. This is especially relevant to planning matters where often decisions are taken against the interests of individuals but for the benefit of the wider community. However, case law has established there may be occasions where the need to uphold public trust and confidence in the impartiality of planning decision making requires a restriction of members' representative capacity.
9. The role of members of the Planning Authority is to make planning decisions openly, impartially with sound judgement and for justifiable reasons.
10. Although members may take into account the views of others they should not discriminate in favour of any particular group or individual or put themselves in a position where they appear to do so.
11. Members are advised to treat with extreme caution any offer, gift, favour or hospitality that is made to a member personally. Members are referred to the Code and to the Gifts and Hospitality Guidance for Members.
12. Officers who are chartered town planners must act in accordance with the Royal Town Planning Institute's (RTPI) Code of Professional Conduct and breaches of that code may be subject to separate disciplinary action by the Institute. All officers are expected to follow the Council's own Code of Conduct for Employees, or any statutory code which may come into force or be adopted by the Council.
13. Members are free not to follow the advice of the professional officers. Professional officers may also have a change of opinion but this must be on the basis of professional judgement; they must not be allowed to be influenced by members or other officers to change an opinion where this does not genuinely represent their professional view. The Council endorse the RTPI's statement that its members "shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions".
14. The Council has a designated head of the planning service, who is qualified for election to membership of the RTPI and who has direct access to elected members as their professional adviser on planning matters.

### *Declaration of disclosable pecuniary interests*

15. Part 2 of the Code incorporates the provisions in the Localism Act 2011 concerning the disclosure of pecuniary interests.

## PLANNING PROTOCOL FOR MEMBERS

16. A “Disclosable Pecuniary Interest” is fully defined in the Code and includes, in relation to both members and their partners:
- Employment, office trade, profession or vocation
  - Sponsorship
  - Contracts
  - Land
  - Licences
  - Corporate tenancies
  - Securities
17. It is a criminal offence, if a Member without reasonable excuse:
- a. fails to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
  - b. fails to declare a disclosable pecuniary interest at a meeting if it is not on the register
  - c. fails to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that s/he has disclosed to a meeting
  - d. participates in any discussion or vote on a matter in which s/he has a disclosable pecuniary interest
  - e. knowingly or recklessly provides false or misleading information relating to disclosable pecuniary interests in notifying the Monitoring Officer or in disclosing such interest to a meeting.
18. Part 2 of the Code also advises members that, if they are present at a meeting and have a disclosable pecuniary interest in any matter to be considered at that meeting:
- members must disclose the interest to the meeting whether or not it is registered
  - members must not participate in any discussion of the matter or in any vote taken on the matter at the meeting and must withdraw from the room of the meeting whilst the matter is being considered.

Members with a disclosable pecuniary interest in a planning matter may apply to the Monitoring Officer for a dispensation to make representations, answer questions or give evidence relating to the relevant planning matter at a meeting, provided that the public are also allowed to attend the meeting for the same reason. Members must declare their interest at any meeting which they attend with a dispensation and must make it clear that their representations are made in a personal capacity rather than in their role as a councillor.

### **Declaration of personal interests**

19. Part 3 of the Code states that, in addition to disclosable pecuniary interests, members must also register other personal interests defined in the Code.

## PLANNING PROTOCOL FOR MEMBERS

20. Subject to the circumstances outlined in the Code, where members have a personal interest in any business of the Council and attend meetings such as Planning Committee at which the business is considered, they must disclose the existence and nature of that interest at the meeting.

### **Declaration of prejudicial interests**

21. A member with a personal interest in any business of the Council also has a prejudicial interest if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice the member's judgement of the public interest. A full definition of 'prejudicial interest' appears in Part 3 of the Code.
22. A member with a prejudicial interest must disclose the interest to the meeting and must withdraw from the room where the meeting is held unless s/he is making representations, answering questions or giving evidence relating to the relevant planning matter provided that the public are also allowed to attend the meeting for the same reason. The member must leave the room immediately after making representations, answering questions or giving evidence and must not participate in any discussion of the matter at the meeting or in any vote taken on the matter at the meeting.

### **Bias and predetermination**

23. The law on bias and predetermination may apply at times when the member concerned does not have a disclosable pecuniary interest or a personal or prejudicial interest as defined by the Code.
24. Predetermination is a principle developed by the courts which has established that a decision taken by a public body is unlawful if the decision maker approaches the decision with a closed mind.
25. Section 25 of the Localism Act 2011 applies when a Court has to consider whether a decision has been validly made. It provides that a "decision taker" is not to be regarded as having a closed mind just because the decision taker had previously done anything that directly or indirectly indicated what view the decision-maker took or would or might take in relation to a matter that was relevant to the decision. The use of the qualifying words 'just because' in Section 25 indicates that some decisions will still be invalid by reason of predetermination notwithstanding the enactment of the section, because all the circumstances surrounding the decision have to be taken into account. Regardless of any predisposition of members to determine an application in accordance with their political views and policies, the members of Planning Committees must approach decision making with an open mind, must listen to the evidence and arguments on both sides and must make decisions with regard to material planning considerations. Members should not have, or appear to have, a closed mind on a planning application prior to its full consideration at Planning Committee.

## PLANNING PROTOCOL FOR MEMBERS

26. Where bias or predetermination or a risk of the perception of bias or predetermination arises, a member of Planning Committee who has, or appears to have, a closed mind about a planning matter in advance of Committee should not participate in the decision making part of the meeting. Members may, in their representative capacity, address the Committee on the planning merits of the application for the same period of time as any member of the public with a right to speak. Members should declare that they cannot participate in the decision taking as a result of having a closed mind in advance of the meeting and withdraw as soon as they have addressed the Committee.

### **Development proposed by the City Council or a Council controlled company or agency**

27. Planning legislation allows councils, and bodies controlled by them, to submit and determine development proposals which they intend to carry out themselves. These shall be considered in the same way as those put forward by private developers.
28. Decisions shall be taken strictly on planning merits and without regard to any financial gain that the Council - e.g. in its capacity as land owner - may accrue, if the development is allowed. The Council should treat such applications on an equal basis with all other applications.
29. Members of the Planning Committees who hold a position of control or management in another public authority or are appointed by the Council as its representative to another body need to consider their position where such bodies submit planning applications to the Council. In such cases the Code provides that members have a personal interest and need only disclose the nature or existence of that interest when they address the meeting on the business which relates to their public authority or other body, unless the interest is a prejudicial interest. Members should always consider whether it is appropriate to regard themselves as having no prejudicial interest in the light of the specific facts. In addition, because of the appearance of bias, a member should always consider whether it is appropriate to take part in the decision making process. For example, where the member has been or is perceived as being the chief advocate for the proposal *or* has had a significant personal involvement in preparing or promoting the proposal by which s/he may be perceived as being unable to act impartially or determine the proposal purely on its planning merits and in the public interest *or* has, or appears to have, a closed mind about the application, this would give rise to an appearance of bias. If the circumstances would give rise to potential allegations of bias, members are advised to explain their involvement and not take part in the decision (see paragraph 26 above).

### **Development proposals by individual members or officers or persons related to them**

## PLANNING PROTOCOL FOR MEMBERS

30. Serving members or officers should never act as agents for another in pursuing a planning matter. If members or officers submit their own proposal to the Council they should take no part in the processing and determination of that proposal. The Council's Head of Planning should be informed of all such proposals as soon as they are submitted.
31. Proposals for development by members or officers shall be reported to the Planning Committees and should not be determined under delegated authority unless they relate to the residence of a member or officer *and* there are no objections to the application.
32. Officers should not deal with development proposals and planning applications in which they have a personal interest.

### *Lobbying of and by members*

33. Lobbying is a necessary and legitimate element of the political and democratic process. Those affected by a development proposal often try to canvass support from one or more members of a planning committee. The time for individual members of the Planning Committees to make a decision on a proposal is at the committee meeting when all the relevant information is available and has been properly considered. Members should not close their minds or give the appearance of having closed their minds, particularly in relation to an external interest or lobby group, prior to the Planning Committee meeting. Members who commit themselves in advance to a fixed view as to how the proposal should be determined should withdraw from the room in which the meeting is held and not participate when the Committee is discussing or voting on the application. They may, in their representative capacity, address the Committee on the planning merits of the application (see paragraph 26 above).

(Note: Where a matter is discussed and then deferred from one meeting to another, members may continue to take part in the decision at the second meeting, even if they have expressed views at the first meeting. Members should always keep an open mind and take into account new information presented at the second meeting when they vote)

34. Members are free to listen to a point of view about a particular proposal and to provide procedural advice, (e.g. by referring the person to a particular officer). They should be careful however to reserve their own final judgement on the matter until the Planning Committee meeting.
35. Members should not circulate unofficial papers not previously considered by officers at Planning Committee meetings.
36. Members should not use mobile telephones or hand held devices during the Planning Committee meeting to discuss the progress of the application with any other person.



## PLANNING PROTOCOL FOR MEMBERS

### Membership of lobbying groups

37. If a member is in a position of general control or management of an organisation that has made representations on a particular planning matter then s/he he is likely to have a personal interest under the Code. Such membership may also give rise to a perception of bias or predetermination (see paragraph 26 above).
38. Whether membership constitutes a prejudicial interest will depend on the individual case. Where their lobby group has expressed a public view on a matter, members must consider whether a member of the public with knowledge of the relevant facts would reasonably regard the member's judgement of the public interest as prejudiced. In deciding whether they have a prejudicial interest, members should consider:
  - the nature of the application
  - the nature of their involvement with the organisation
  - the publicly expressed views of the organisation
  - what the member has said or done in relation to issues relevant to the application
39. A personal interest may also be prejudicial where it relates to the determining of any planning application in relation to any persons or bodies described in paragraph 12.3 in Part 3 of the Code (see paragraph 21 above)

### *Pre and post application discussions*

40. Members of Planning Committees need to uphold their position as impartial decision makers and it would not be appropriate for them to take part in pre or post application discussions with applicants, developers or groups of objectors regarding the proposed development even if they find it desirable as a ward member to attend such meetings. If it is necessary that they do so in order to fulfil some role other than ward member, this should be part of a structured arrangement agreed with a senior planning officer, who will arrange the meeting and the attendance of an officer at the meeting.
41. During any pre-application discussions or meetings with the applicant, developers or group of objectors that may take place, it shall be made clear by an officer at the outset that the Council will not - as a result of anything during the course of such communication - be bound to make a particular decision and further that any views expressed are provisional only and not those of the Council.
42. A written note shall be made of such pre-application meetings. At least two officers should be present at meetings likely to arouse controversy as to what took place.

## **PLANNING PROTOCOL FOR MEMBERS**

### ***Officer reports to committee***

43. Officers' reports to the Planning Committees (except to present and update a report) shall be in writing except in the most exceptional circumstances. Oral reports which are material to the Committee's decision shall be minuted.
44. Officers should seek to apply and interpret national and local planning policies in a consistent and objective manner.
45. Reports to the Planning Committees shall be accurate and provide all relevant information. They shall contain a reasoned assessment of the proposal and justification of any recommendation. If an officer's recommendation is contrary to the Development Plan the material considerations which justify this shall be set out clearly.

### ***Decisions contrary to officer recommendation***

46. Members shall take decisions on planning matters in accordance with the Development Plan (or its statutory replacement) where relevant unless material considerations indicate otherwise. The reason for a contrary decision should be clear and convincing and fully minuted.
47. In order to ensure an accurate minute of decisions contrary to officer advice, members should ordinarily make a resolution that they are minded to grant or refuse permission. When such a resolution is made, officers will report to the next committee on the proposed course of action and shall produce a written record of the proposed decision and reasons for adoption by the Committee.
48. A senior officer should be asked to explain to the Committee the implications of a contrary decision before the decision is taken.
49. If the Committee asks for additional planning conditions to be imposed or requests that amendments be made to proposed conditions, officers should prepare the draft condition. Standard conditions may be delegated to officers. Drafting of non-standard conditions which significantly depart from officers' recommendations as set out in the committee report should be delegated to officers in consultation with the Chair.

### **Committee site visits**

50. A decision to carry out a site visit may be held where a proposal is contentious or complex and the impact is difficult to visualise or assess from the plans or any supporting presentation. The visit is intended to enable members to gain knowledge of the proposal and its physical context.
51. Members, objectors and interested parties who are in regular contact with officers about specific applications will be able to obtain information about proposed site visits. Any correspondence from officers relating to a site visit

## **PLANNING PROTOCOL FOR MEMBERS**

shall identify clearly the purpose of the visit and its form and explain the limited extent to which members can receive representations during a site visit from the local members, applicants, objectors and interested parties. A note shall be taken by officers of any significant events occurring during the site visit.

52. While attending site visits members are free to listen to views expressed by the local members, applicants, objectors and other interested parties at the site visit but should not express an opinion on the planning application or on its merits (or otherwise) at the site visit.
53. In order to ensure transparency of public dealing by members, members shall keep together as a group and shall not engage individually in discussion with local members, applicants, objectors and other interested parties present at the site visit. Any questions or representations by local members, applicants, objectors and other interested parties shall be made in the presence of the other parties.

### **Complaints and record keeping**

54. Any complaints made about the planning process should be recorded accurately, and would normally be dealt with in accordance with the Council's established Complaints Procedure, unless it is a complaint which is appropriate to be dealt with as a Standards or Conduct issue, in which case it should be reported to the Council's Monitoring Officer in the first instance.

### **Breach of the Members' code**

55. Breaches of the Code and/or this Planning Protocol by members should be reported to the Monitoring Officer.

## Section C

# Use of Council Resources Guidance for Members

## USE OF COUNCIL RESOURCES

### SECTION C: USE OF COUNCIL RESOURCES GUIDANCE FOR MEMBERS

#### General Introduction

Manchester City Council's Code of Conduct for Members provides that a member when using or authorising the use by others of the Manchester City Council's resources, must act in accordance with the Council's reasonable requirements and ensure such resources are not used improperly for political purposes (including party political purposes).

Manchester City Council requirements on the use of Council facilities and resources are set out below. This guidance note also sets out the rules relating to the use of Council facilities in connection with publicity and guidance on the use of the internet and external e-mail. Any breach of these requirements could result in a breach of Manchester's local code of conduct for Members.

#### Use of facilities for Council business

The City Council makes various facilities available for the use of members in connection with Council business. These facilities include the Members' Secretariat, use of rooms, stationary, postage, telephones, photocopying and computer facilities.

Council facilities are only available for members' work in connection with Council business. Council business' means matter relating to a member's duties as an elected Councillor, as an Executive member, as a member of a committee, sub committee working party or as a Council representative on another body or organisation e.g. Police Authority or Passenger Transport Authority.

Matters for which Council facilities are available will include:

- Letters to and communications with individual members of the public, other members, officers, government officials, maps etc. in connection with those duties set out above.
- Documents and communications in connection with the formulation of policy and the decision making process of the Council or other organisations on which a members represents the council
- Material for discussion by a political group on the Council, so long as that relates mainly to the work of the Council and not the political party.

The following are not Council business and Council facilities will not be available:

- Documents relating to the policy and organisation of political parties, particularly regarding the conduct of elections
- Documents and communications for constituency party meetings, ward party meetings, etc. or letters to party members collectively in their capacity as party members.

## USE OF COUNCIL RESOURCES

It is generally inappropriate for members to use Council facilities for volume mailings, including sending out circulars and conducting wide-scale consultation exercises, even though these may involve Council business. If in an exceptional case, a member feels that a volume mailing can be justified, s/he should submit a specific request to the Chief Executive.

### Publicity

Special rules apply to the use of Council resources in relation to publicity which is defined as 'any communication in whatever form addressed to the public at large or to a section of the public'. This will include press releases and letters to the media (unless clearly marked "not for publication") but does not cover letters to individuals, unless this is on a scale which could constitute 'a section of the public'.

The local authority is prohibited from publishing political material by virtue of section 2 of the Local Government Act 1986. The Act states that;

#### "Section 2

- (1) A local authority shall not publish or arrange for the publication of, any material which, in whole or in part, appears to be designed to affect public support for a political party.
- (2) In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters:
  - (a) whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another.
  - (b) where the material is part of a campaign, the effect which the campaign appears to be designed to achieve.
- (3) A local authority shall not give financial or other assistance to a person for the publication of material which the authority are prohibited by this section from publishing themselves."

Although Section 2 applies to all publicity produced by the local authority it is obviously particularly important to be sensitive to the provisions of the Act at election time.

Further guidance on the subject of publicity is contained in the Code of Recommended Practice on Local Government Publicity, of which the following is an extract:

### Individual Councillors

"Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the executive or Chair of Overview and

## USE OF COUNCIL RESOURCES

Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.

Publicity should not be, or liable to misrepresentation as being, part political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals”

The Code also specifically covers activity around elections, referendums and petitions.

### **Publicity around Elections**

“The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve members likely to be standing for election.”

In the light of this provision particular care should be taken in the period beginning with the Notice of Election and the election itself.

### **Internet & External E-mail - Acceptable Use Guidelines**

These guidelines have been produced specifically for members of the Council and to outline their responsibilities in the use of the City Council's Internet service, including the use of external e-mail facilities and the use of Council equipment to access the Internet. They have been devised to support the City Council's Internet Security Policy, with the main objective of protecting the City Council and Elected Members. A similar set of guidelines exists for employees.

Use of internal e-mail is specifically covered in the main body of the Code of Practice on Information Security. However, users are reminded that Manchester City Council's systems must not be used for any purpose other than those directly concerned with official City Council business, or the work of Elected Members. Users who are unsure about any permissible uses must seek clarification from Members Services or the Chief Executive's Department's IT Unit.

## USE OF COUNCIL RESOURCES

All Elected members and other potential users of the Council's Internet service are required to read and sign a copy of these guidelines before being granted access to the Internet and / or external e-mail facilities.

### Access to the Internet

Members of the Council will be able to gain access to the internet through computers held in Members Services within the Town Hall complex; to a limited number of sites through the dial-up connection to the Town Hall from the computer supplied by the Council and installed in their home; and via an ISP which they may install on the computer supplied by the Council and installed in their home.

Councillors will be provided with a unique user ID and password to access the internet via the Council link, etc. (Users should refer to the City Council's guidance on maintenance of passwords).

Access to the City Council's Internet and external e-mail services will be provided through a PC attached to the corporate network through Members Services or Group work rooms and at their homes. (Under no circumstances should PC's connected to the corporate network connect to the internet via any other route, unless through prior agreement with the Head of Technology Services). Elected Members who install an ISP on their Council provided PC must adhere to the Acceptable Use guidelines set out in this document.

All PCs provided to members will be installed with up to date anti-virus and security software. (Guidance on anti-virus software is available from the Chief Executive's IT Support Unit).

### Acceptable Uses

As a general principle, internet access and external e-mail facilities are provided to Elected Members to support work on Council related activities. The following list, although not intended to be definitive, sets out broad areas of use that the Council considers to be acceptable:

- to provide a means of communication with other Councils, agencies and organisations and constituents.
- to view and obtain information in direct support of the City Council's business activities;
- to promote services and products provided by the City Council;
- to communicate and obtain information in support of approved personal training and development activities;
- any other use that directly supports the work of an elected member;
- a limited amount of personal use.

It is each individual elected member's responsibility to check with the Departmental IT Support Unit, Chief Executive/City Solicitor to ascertain whether any proposed use not referred to **above** falls within the Council's definition of acceptable use.



## USE OF COUNCIL RESOURCES

### Unacceptable Uses

In general terms, any use of the internet which contravenes any legal Act (for example, The Data Protection Act 1998; The Computer Misuse Act 1990; The Copyrights, Designs and Patents Act 1988; The Obscene Publications Act 1959 and 1964); or any internal City Council policy (in particular, Council policies on Information and Internet Security; Equal Opportunities and Harassment) is unacceptable. Unacceptable uses include the following:

- illegal or malicious use, including downloading or transmitting copyright material;
- accessing, storing or transferring pornographic or obscene material;
- the deliberate propagation of computer viruses, or use of the Internet to attempt unauthorised access to any other IT resource;
- use of the internet or e-mail for private business purposes, such as a commercial enterprise.
- access to or distribution of material which contravenes the City Council's Equal Opportunities and Harassment Policies;
- entering into any commitment on behalf of the City Council (unless having explicit and written permission to do so).
- soliciting / obtaining personal information not in connection with the Council's business, without prior authorisation (this could contravene the Data Protection Act and leave you, and the City Council, susceptible to legal action);
- access to, and use of, recreational games.
- Use of e-mail for potentially libellous or defamatory purposes.

It is considered acceptable for elected members to use the PC installed in their homes for the following:

- personal purposes, for example purchasing holidays, goods and services;
- general surfing of the internet for non work related purposes.

The computers have been installed primarily to assist with Council business and the majority of use should be for Council business. Any use of the Internet which is considered to be in breach of statute, will be referred to the Police and may lead to criminal prosecution. Members must take especial care in the use of the PC by other family members.

To summarise, the City Council's Internet and External E-mail services are provided only to authorised users, for uses in connection with the City Council's legitimate business. Any intended uses not clearly relating to City Council business, must have the written prior authorisation of the Chief Executive. It is each individual users responsibility to clarify acceptable uses before use, if there is any uncertainty.

### Etiquette and User Responsibilities

The Internet as a whole does not have any central management or control. However, in order to maintain some standards of behaviour, the internet community has developed a set of written ethics known as "netiquette", which outline conventions and rules of conduct when using the internet. It is strongly recommended that all users of the City Council's Internet take time to read the netiquette guidelines, which can be found on the internet at [www.fau.edu/netiquette/net/](http://www.fau.edu/netiquette/net/)

## USE OF COUNCIL RESOURCES

As a general principle, remember that you are acting as an elected representative of the City Council, using Council equipment and are accessing a non private network.

At all times have regard for City Council policies and legal requirements when using the Internet. Where appropriate, have equal regard for specified rules and policies of the owners of services you access via the internet.

### **E-mail**

The City Council's e-mail systems are provided to support its business activities. Access to e-mail systems is granted to Elected Members expressly on this basis. E-mail is a form of publication. Individual Elected members as well as the Council are potentially open to action for libel, defamation or breach of trust. E-mail must not be used for potentially libellous or defamatory purposes.

Whenever an external e-mail is sent, the sender's name, e-mail address and Council name must be included. Do not be abusive in messages to others. Be careful with humour; remember written messages could be easily misconstrued. Forgery, or attempted forgery of electronic mail is prohibited. Attempts to read, delete, copy or modify the mail of others are prohibited. If you receive e-mail from outside the Council that you consider to be offensive or harassing, consult IT. Members Services/Dept IT Unit? in accordance with the City Council's Incident Reporting Procedures. DO NOT respond to such e-mails. (Internal e-mail of a harassing nature will be dealt with under the City Council's Harassment policy).

Remember: Your e-mail is NOT private. E-mail documents form part of the administrative records of the City Council and the City Council has the right of access to all e-mail sent or received, on the same basis as written documentation. In order to ensure compliance with the requirements of City Council policies and the contents of this guidance document, the City Council may utilise monitoring software to check on the use of e-mail services, as well as software to check the content of all e-mail messages sent and received. These software tools will only be used for the legitimate purposes of ensuring compliance with stated legal acts, policies and guidelines so as to protect the City Council against the risk of criminal and civil actions, as a result of the unauthorised actions of its employees, or elected members and in connection with the administration of the e-mail service itself.

### **Restrictions on Use**

Where possible, access to material known to be of an offensive or undesirable nature (for example, which may contravene the City Council's policies on Equal Opportunities and Harassment) will be prevented using appropriate security tools and filtering software.

If any elected member unintentionally accesses an internet site which contains material of an offensive or undesirable nature, they should immediately exit the site. In these instances elected members should report the incident to Dept/IT Unit who may prevent future access to such sites by implementing preventative measures.

## USE OF COUNCIL RESOURCES

### **Monitoring**

Internet use will be monitored. A computer installed in a member's home may be called in for checking at any time and may be subject to review by Internal Audit at any time.

### **Disciplinary Action**

Action may be taken against any user of the City Council's Internet and external e-mail service that contravenes the requirements of these guidelines, by reference to the Standards Committee.

## **Section D**

# **Gifts and Hospitality Guidance for Members**

## GIFTS AND HOSPITALITY

### SECTION D: GIFTS AND HOSPITALITY GUIDANCE FOR MEMBERS

#### General Introduction

Manchester City Council's Code of Conduct for Members (the Code) requires members to notify the Monitoring Officer in writing of a personal interest in any business of the Council where it relates to or is likely to affect the interests of any person from whom the member has received a gift or hospitality with an estimated value of at least £100 (an interest under paragraph 11.2(c) of the Code).

In addition to the obligation under paragraph 11.2(c) of the Code, the Council requires members to notify the Monitoring Officer of any gifts or hospitality accepted by either themselves or their partner by or on behalf of the elected member in connection with their appointment as an elected member or representative of the Council with an estimated value of at least £100.

It is also a breach of the Code for a member to conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute or for a member to use or attempt to use their position as a member improperly to confer on or secure for themselves or any other person an advantage or disadvantage.

The following protocol aims to assist members in complying with these obligations and seeks to provide wider guidance so members can avoid any situation where their integrity may be brought into question as a result of gifts and hospitality.

#### Legal position

The Bribery Act 2010 provides that it is a criminal offence for a member to request, receive, agree to receive, promise, offer or give any gift, loan, fee, reward or advantage for doing not doing anything or showing favour or disfavour to any person in their official capacity. It is for the member to demonstrate that any such rewards have not been corruptly obtained.

#### 1. Gifts and hospitality

Members are advised to treat with caution any offer, gift, or hospitality that is made personally to them in their capacity as an elected member/representative of the Council. The person or organisation making the offer may be doing business or seeking to do business with the Council or may be applying to the Council for some sort of decision in respect of which it is imperative that the member's independence should not be compromised e.g. planning or licensing approvals.

The requirements for notification of a personal interest under paragraph 11.2(c) of the Code and any other gifts or hospitality accepted by the member or their partner in connection with their position as an elected member/representative of the Council with an estimated value of at least £100 are set out at 2.1 below. It is recommended that where a member refuses any gift or hospitality offered to them or to their partner in connection with their position as an elected member/representative of the Council, the member

## GIFTS AND HOSPITALITY

should notify the Monitoring Officer of the refusal as soon as reasonably practicable. The Monitoring Officer will maintain a register for this purpose.

Below are some examples regarding acceptance of gifts and hospitality:

### 1.1 Gifts

Where the gift is of purely token value given to a wide range of people e.g. a pen or key ring, the member should be able to accept such a gift and as it will usually be substantially less than £100 in value there should be no need to register it.

Where the gift is of low value and refusal would cause needless offence and the giver is not currently seeking a decision or business from the Council the member should be able to accept it, and again as it will usually be substantially less than £100 in value there should be no need to register it.

Whilst it may be acceptable to accept a token or gift of low value on one occasion members should refuse repeated gifts, even if these are individually not of a significant value.

Cash or monetary gifts should always be refused without exception and the refusal notified to the Monitoring Officer.

Gifts given as prizes at exhibitions, conferences, seminars etc. as part of a free raffle or draw may be accepted but they belong to the Council and should be notified to the Monitoring Officer as soon as reasonably practicable (notwithstanding that their value may be less than £100). The Monitoring Officer in consultation with the chair of the Standards Committee will determine whether it is appropriate to retain the gift in question.

### 1.2 Hospitality

It is increasingly the case that private companies offer hospitality e.g. free drinks, tickets to shows or hotel accommodation to persons with whom they do business or with whom they hope to do business in the future. Such hospitality could convey the impression that the member's judgement would be influenced. It would however be too rigid to say that no hospitality can be accepted. Members are reminded that any hospitality with an estimated value of at least £100 should be notified to the Monitoring Officer.

Examples of hospitality which may be acceptable are set out below but depend on the particular circumstances, for example who is providing the hospitality, why the member is there and the nature of the dealings between the Council, the member and the provider of the hospitality:

- A working meal provided to allow parties to discuss or to continue to discuss business;
- An invitation to attend a dinner or function of a Society, Institute or other non commercial body with whom the Council has contact; or
- Invitations to attend functions where the member represents the Council (opening ceremonies, public speaking events, conferences).

## GIFTS AND HOSPITALITY

The following are examples of unacceptable hospitality:

- Holidays, including accommodation and travel arrangements;
- Offers of complimentary theatre and sporting tickets for the member/family or free travel; or
- Paid for corporate invites for evenings out with representatives from a company or firm who have dealings with the Council or who are likely to have dealings in the future.

Members are again advised to err on the side of caution and if in any doubt as to the integrity of the offer / invite the member should consult the Monitoring Officer or refuse.

### 2. Registration of a personal interest under paragraph 11.2(c) of the Code and other gifts and/or hospitality

#### 2.1 Personal and Personal and Prejudicial Interests under paragraph 11.2(c) of the Code

A personal interest under paragraph 11.2(c) of the Code must be registered:

- Within two months of the adoption by Council of the Code (currently 11 July 2012);  
or
- 28 days of the members election or appointment to office

whichever is the later.

In addition the Code requires members to disclose the personal interest under paragraph 11.2(c) of the Code where a member is aware/ought reasonably to be aware of the existence of the personal interest when a member attends a meeting of the Council at which the business is considered. The member must disclose to the meeting the existence and nature of that interest at the commencement of the consideration, or when the interest becomes apparent. Where a member has a personal interest under paragraph 11.2(c) of the Code they need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

When disclosing a personal interest under paragraph 11.2(c) of the Code members must also consider whether the personal interest is a prejudicial interest under paragraph 13.1 of the Code. If this is the case, paragraphs 13.2 – 13.5 of the Code apply. Where the personal interest is also a prejudicial interest under paragraph 13.1 of the Code, if the personal interest is not registered and is not the subject of a pending notification, the member must notify the Monitoring Officer of the interest within 28 days of the meeting at which the interest was disclosed.

Members must notify the Monitoring Officer of any gifts or hospitality accepted by them or their partner in connection with their position as an elected member/representative of the Council with an estimated value of at least £100 within 28 days of the receipt of the gift or hospitality.

## **GIFTS AND HOSPITALITY**

### **3. Notifications**

Notifications of gifts and hospitality should be sent to the Monitoring Officer at the following address.

Governance and Scrutiny Support Unit  
Chief Executive's Department  
Manchester City Council  
Room 403 Town Hall  
Albert Square  
Manchester M60 2LA

A form for this purpose is available from the Governance and Scrutiny Support Unit who administer the register on behalf of the Monitoring Officer.

### **4. The register of members' interests**

Notifications will be included in the register of members' interests, a copy of which is available for public inspection and is published on the Council's website (subject to the rules on sensitive information set out in paragraph 16 of the Code).

This register is subject to scrutiny by the Standards Committee and inspection by the Monitoring Officer, Head of Internal Audit and Risk Management and External Auditors.

### **5. Gifts which cannot be retained**

Where the Monitoring Officer in consultation with the Chair of the Standards Committee determines that it would not be appropriate for a member to retain a gift, that gift will be returned, utilised by the Council or otherwise donated to an appropriate charitable organisation as determined appropriate by the Monitoring Officer and Chair of the Standards Committee.

### **6. Conclusion**

Members are advised to seek the advice of the Monitoring Officer in cases where their position is unclear.

Breaches of this protocol may result in a breach of the Code.



## **Section E**

# **Code of Conduct for Employees**

# **Employee Code of Conduct**

**Manchester City Council**

**Issued by:  
Employee Relations Team  
Corporate Personnel  
2008**

# CODE OF CONDUCT FOR EMPLOYEES

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## CODE OF CONDUCT FOR EMPLOYEES

### CODE OF CONDUCT FOR EMPLOYEES Manchester City Council

#### 1. INTRODUCTION

- 1.1 The general public including Manchester service users are entitled to expect the highest standards of conduct from all employees who work for local government.
- 1.2 The Code of Conduct for Employees sets out with clarity and certainty how employees of Manchester City Council should respond to issues that commonly arise during their employment and seeks to protect them from accusations of bias, undue influence or impropriety.
- 1.3 The aim of the Code is to enhance and maintain the integrity (real and perceived) of local government and for this purpose, the Code demands very high standards of personal conduct.
- 1.4 The Code of Conduct and all related policies and documents referred to therein are available for information on the Council's intranet site [http://www.mcc/\\_vti\\_bin/shtml.dll/search/index.htm](http://www.mcc/_vti_bin/shtml.dll/search/index.htm) and from all Council Personnel Sections.
- 1.5 The Code of Conduct for Employees has been agreed between the City Council and the relevant trade unions, and is incorporated into contracts of employment as set out in Section 2. The Local Government Act 2000 provided a new statutory framework to govern the conduct of members and employees of relevant authorities. Under the Act the Secretary of State can and will issue an Employee Code of Conduct, which will become part of an employee's terms and conditions of employment. Where a provision in the statutory Employee Code of Conduct conflicts with this, the statutory provision will prevail.

#### 2 SCOPE AND STATUS OF THE CODE

- 2.1 The Code covers all employees under a contract of employment within Manchester City Council except teaching staff, although Governing Bodies of maintained schools are encouraged to adopt it.
- 2.2 Whilst the Code is designed to apply to employees of Manchester City Council, it is expected that non-teaching staff in schools will follow the spirit of this Code of Conduct in their dealings with all service users. Governors of maintained schools are, therefore, commended to approve and adopt this Code of Conduct. Teaching staff are covered by their own professional Code of Conduct as issued by the General Teaching Council and can be found at <http://www.gtce.org.uk/>
- 2.3 The Code is incorporated into employees' contracts of employment and any breaches are dealt with under the agreed Disciplinary Procedure where appropriate. For the avoidance of doubt, if unclear about any

## CODE OF CONDUCT FOR EMPLOYEES

requirement or obligation under the Code of Conduct for Employees, employees should seek advice from their line manager.

- 2.4 The Council is committed to conduct of the highest standard such that public confidence in its integrity is maintained and as such expects all those who provide services on its behalf to adhere to the Code of Conduct.
- 2.5 Additionally, therefore, it is also expected that those providing services to and on behalf of the Council, for example, contractors, casual, agency and supply staff, will follow the spirit of this Code in their dealings with the public who use the Council's services.

### 3. GENERAL PRINCIPLES

- 3.1 The authority is committed to supporting employees by setting out their job role and the expectations on them, as well as ensuring that there is a fair and timely evaluation of performance, including provision of feedback by their manager.
- 3.2 The aims and values of the Council will be at the heart of every employee's contract of employment and all work will be undertaken in accordance with these values. The Council's Core Values can be found at [http://www.manchester.gov.uk/site/scripts/documents\\_info.php?documentID=3058](http://www.manchester.gov.uk/site/scripts/documents_info.php?documentID=3058)
- 3.3 The fundamental principles are:
- **Honesty, Integrity, Impartiality and Objectivity** – *An employee must perform his duties with honesty, integrity, impartiality and objectivity.*
  - **Accountability** – *An employee must be accountable to the authority for his actions.*
  - **Respect for Others** – *An employee must treat others with respect, not discriminate unlawfully against any person and treat members and co-opted members of the authority professionally.*
  - **Stewardship** – *An employee must use any public funds entrusted to or handled by them in a responsible and lawful manner and not make personal use of property or facilities of the authority unless properly authorised to do so.*
  - **Personal Interests** – *An employee must not in their official or personal capacity allow his personal interests to conflict with the authority's requirements or use their position improperly to confer an advantage or disadvantage on any person.*

## CODE OF CONDUCT FOR EMPLOYEES

- **Declaration of Interests** – *An employee must comply with any requirements of the authority to declare interests and hospitality, benefits or gifts received as a consequence of their employment.*

- 3.4 Employees will not, either in an official capacity or in any other circumstance, conduct themselves in a manner which could reasonably be regarded as bringing the Council into disrepute.
- 3.5 Employees must declare any personal interests or circumstances which may conflict with the Council's interests and/or undermine public confidence in the integrity of the Council.
- 3.6 The Council positively encourages employees to participate in public duties and to be involved in voluntary and community work. Employees must be mindful of the provisions of this Code and the impact that outside commitments can have on their employment with the Council.
- 3.7 Employees must cooperate with any checking process where posts are identified as requiring disclosure of criminal convictions, particularly where the position is identified as involving a degree of risk or where there is a legal requirement to do so.
- 3.8 All employees who have access to Council assets, which includes property, buildings, cash, equipment and other assets, must take responsibility for the security of such assets and ensure assets are managed securely and protected against accidental loss or damage, unnecessary risk, and unauthorised use.

## 4 EQUALITY

- 4.1 Employees must ensure that Council policy relating to equality and equal opportunity is followed. All members of the local community, customers and colleagues have a right to be treated with fairness and equity irrespective of their race, ethnicity, age, gender, religion or belief and sexuality. Employees need to make sure that they are aware of the factors which result in inequality and oppression for the above groups.
- 4.2 Employees should undertake their duties so as to seek to redress this. If they become a victim of harassment at work, this should be reported to their manager at the earliest opportunity.
- 4.3 Employees must be professional in their behaviour towards colleagues and treat each other with mutual dignity and respect. Employees must not through actions, words or behaviour undermine the dignity and respect or cause others to think less or be disrespectful of any individual/group.  
Further information on the Equal Opportunities Policy can be viewed on Manchester City Council's website at <http://www.mcc/pmg/strategy/equality/>

## CODE OF CONDUCT FOR EMPLOYEES

### 5 STANDARDS

5.1 In carrying out their duties, employees will act with professionalism and will follow the Council's Customer Care Standards at all times.

5.2 Employees will be informed of the corporate standards and have a duty to ensure that these standards are applied in relation to the following issues:

- Dealing with telephone enquiries
- Dealing with written and electronic enquiries
- Dealing with face to face enquiries
- Name badges and identification
- Customer complaints

More information on the Council's standards of dress and appearance is available on the Intranet (<http://www.mcc/cex/customer care/index.htm>).

#### 5.3 Standard of Dress and Appearance

5.3.1 First impressions count and if a member of staff is inappropriately dressed then at best it presents an obstacle to be overcome in the minds of members of the public. At worst it can create the view that the Council is inefficient. There is therefore a general expectation that dress will be appropriate to the nature of the duties and responsibilities undertaken by the individual.

5.3.2 The Council values and welcomes the ethnic diversity of its workforce and therefore Departmental dress codes will take account of ethnic and religious dress requirements with sensitivity ensuring that employees are free to observe them.

5.3.3 Where there are clear business, service, Health & Safety reasons, individual service specific variations/modifications will enable departments to introduce an appropriate dress code to suit the services they provide and to meet the expectations of the public. Where such codes are established and communicated, employees will be expected to meet the service standards set.

Further information on the City Council's Dress Code can be viewed on Manchester City Council's website at [www.mcc/od/key/corpdev/care/](http://www.mcc/od/key/corpdev/care/)

### 6 RELATIONSHIPS

#### 6.1 Councillors

6.1.1 Councillors have a key role to play in the governance and management of the Council. They decide which policies the Council should pursue, ensure that they are carried out and monitor services provided to ensure that they are delivered in the most efficient and effective way.

## CODE OF CONDUCT FOR EMPLOYEES

As ward Councillors, they are able to offer their expertise on how decisions may affect their wards and provide their constituents' views, concerns and aspirations relating to the work of the Council. In carrying out their role Councillors must maintain the highest standards of conduct and ethics. Both elected Councillors and co-opted members of the Council are subject to rules set out in a Code of Conduct for Members which governs the standards of behaviour expected of them. A copy of the Code of Conduct for Members can be found in part 6 of the Council's Constitution published on the Council's website [www.manchester.gov.uk](http://www.manchester.gov.uk)

6.1.2 Both Councillors and Officers are servants of the public and indispensable to one another. It is important therefore that their relationship is conducted with mutual respect and courtesy and that neither party seeks to take unfair advantage of their position or seeks to exert undue influence on the other party. Further information on Officer/Member Relation Protocol can be viewed on Manchester City Council's website at [http://www.manchester.gov.uk/site/scripts/download\\_info.php?fileID=3242](http://www.manchester.gov.uk/site/scripts/download_info.php?fileID=3242)

6.1.3 Close personal familiarity between employees and individual Councillors should therefore be avoided as this can damage the working relationship and cause embarrassment with other employees, Councillors and the public.

6.1.4 Where either employees or Councillors feel that they have not been treated with courtesy or respect by the other party, they are entitled to raise the matter with either the appropriate Strategic Director or the Chief Executive.

### 6.2 Service Users

6.2.1 An employee's responsibility is to the community they serve and they should at all times ensure courteous, respectful, efficient and impartial service delivery to all groups and individuals within that community, as defined by the policies of the Council.

6.2.2 Employees should avoid unnecessary personal familiarity with service users that they come in contact with in the course of their work and should not use their position to either take unfair advantage of members of the public who use Council's services or allow themselves to be unduly influenced by service users. An employee's professional integrity must be maintained at all times.

### 6.3 Managers and Employees

6.3.1 All employees with managerial or supervisory roles have a responsibility for the performance of other employees who report to



## CODE OF CONDUCT FOR EMPLOYEES

them and employees at all levels can expect to be directed in their work, and held accountable for their performance, by their manager.

### 6.4 Contractors

- 6.4.1 All Council orders and contracts must be awarded to deliver value for money for the Council through a fair and transparent procurement process. (see section 13).
- 6.4.2 In connection with the procurement of works, goods or services, employees must not seek or receive any gift or personal inducement.
- 6.4.3 Where an employee is involved in the engagement or supervision of a contractor or potential contractor with whom they have/have had a relationship, either of a business, domestic or private nature, they must declare this to the appropriate manager (see also Section 10.2).
- 6.4.4 An employee may not invite bids from any individual or organisation with whom they have a family, personal or financial relationship.

### 6.5 Other employees

- 6.5.1 Employees will treat each other with mutual dignity and respect in the workplace. Additionally, employees will take care to ensure that they do not through actions, words or behaviour do anything to undermine the dignity and respect or cause others to think less or be disrespectful of any individual/group.
- 6.5.2 Through the Dignity at Work Policy, all employees will strive to create a working environment where harassment and bullying are eradicated and diversity is embraced.

### 6.6 The Press and the Media

- 6.6.1 Employees should not, in the normal course of events, be required to deal direct with the Press or the Media.
- 6.6.2 If canvassed by the Press in the course of their work employees must seek advice and express authorisation from their Head of Service and the Press Office on providing any article, publication or interview given on aspects of Council policy.
- 6.6.3 Heads of Service have specific responsibilities in relation to dealing with the media and Press. Any decisions on press releases, quotes senior officers and photo opportunities regarding their service area must be made by them in consultation with the relevant Strategic Director and Executive Member/Committee Chair.
- 6.6.4 Further guidance on dealing with the Press is available on the Intranet and can be viewed at <http://www.mcc/exec/all/protocol.htm>

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### 7 DISCLOSURE OF INFORMATION AND INFORMATION SECURITY

- 7.1 The Council is committed to the principle of open government and recognises the role of information rights legislation in promoting increased transparency and participation in the Council's decision making processes.
- 7.2 The Council proactively publishes a considerable amount of information and makes other information publicly available under the provisions of information rights legislation.
- 7.3 However, the legal framework governing the disclosure of information is complex and is regulated by a number of statutes as well as the common law.
- 7.4 Employees must ensure the Council's information assets are managed securely and protected against accidental loss, damage and unauthorised disclosure.
- 7.5 People-related, confidential and other commercially sensitive information must only be disclosed lawfully and with appropriate authorisation.
- 7.6 Employees must not:
- (a) prevent another person from gaining access to information to which that person is entitled by law
  - (b) subject to paragraph 7.8, disclose information specified in paragraph 7.7 unless they have specific authority to do so.
- 7.7 Paragraph 7.6(b) applies to:
- (a) personal data about an individual, including employees, protected by the Data Protection Act
  - (b) information given in confidence where there is a legitimate expectation that confidentiality will be respected
  - (c) commercially sensitive information about the Council and/or any third party, or
  - (d) confidential or exempt proceedings in Council, Executive or Committee meetings and any reports or other documents connected with them
- 7.8 Paragraph 7.6(b) does not limit the rights of any employee under the Council's Whistleblowing Policy.
- 7.9 Employees must not use any information obtained in the course of their employment for personal gain or benefit; nor should they share it with others who might use it in such a way.

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### **8 INTELLECTUAL PROPERTY**

- 8.1 The Council owns and will retain its rights to ownership of all intellectual property (in materials such as literature, artwork, computer programs, inventions) created by the employee:
- in the course of their normal duties of employment with the Council, and/or
  - in the course of duties specially assigned to the employee, and/or
  - using Council resources without special payment or arrangement with the Council, ;

unless a written agreement to the contrary has been made between the Council and the employee.

- 8.2 Employees are not entitled to use, sell or otherwise exploit the rights to any such intellectual property without written permission from the Council and any such infringement may be a criminal offence.
- 8.3 The Council's ownership of intellectual property rights made during the employee's employment shall continue after termination of the employee's contract of employment.

### **9 ELECTRONIC COMMUNICATIONS**

- 9.1 Employees must ensure that they follow the Council's Information Security Policy in relation to the use and storage of computers and the proper management of electronic information. This is available on the Intranet and can be viewed at <http://www.mcc/itunit/>
- 9.2 Electronic communication systems such as "Blackberries" (any portable communication device), telephones, e-mail and the internet must be used in compliance with existing policies and procedures governing their use. These are available on the Intranet and can be viewed at <http://www.mcc/itunit/>
- 9.3 Access to e-mail facilities is provided to employees in order to facilitate council business. E-mail users will be allowed occasional personal use and the Code of Practice provides clarification and guidance on the responsibilities of all users of the e-mail system. E-mails will be monitored using filtering software and the Code sets out the consequences of any attempted or actual breaches of the Code. The e-mail code of practice is available on the Intranet and can be found at <http://www.mcc/pmg/policies/email/index.htm>
- 9.4 All electronic communication must comply with the Council's Equal Opportunities and Dignity at Work policies and objectives. These policies are available on the Intranet and can be found at <http://www.mcc/pmg/strategy/equality/> and <http://www.mcc/pmg/policies/conduct/dignity.htm>

## **CODE OF CONDUCT FOR EMPLOYEES**

### **10 PERSONAL INTERESTS AND OUTSIDE COMMITMENTS**

- 10.1 Employees should not subordinate their duty to their private interests or put themselves in a position where duty and private interests conflict.
- 10.2 In particular if it comes to the knowledge of an employee that a contract in which they have a pecuniary interest has been or is proposed to be, entered into by the Council it is a statutory requirement that they give notice, in writing, to their Strategic Director of the fact of that interest. Such pecuniary interest will include the interest of the employees spouse. (Local Government Act 1972). The Council will expect you to follow this in respect of all immediate family members and in relation to non-financial interests.
- 10.3 Accordingly, employees must declare, in writing, to their line manager any financial or non-financial interests which could conflict with the Council's interests at the point the conflict of interest becomes apparent. This could include membership of outside bodies in a personal capacity and in such cases, the employee must be mindful not to place themselves in a situation where their involvement or contribution could directly or indirectly compromise their continuing professional duty to the interests and values of the Council.
- 10.4 When employees have been appointed by the Council to another body, they must comply with this Code of Conduct except where it conflicts with any other legal obligation to which that other body may be subject.
- 10.5 All employees have a duty to ensure that any outside work undertaken does not impact adversely on their employment with the Council and that all work undertaken, when aggregated, does not exceed the limits on maximum number of hours to be worked per week as set out in the EU Working Time Directive. If in doubt on the application either of these characteristics, employees should seek the advice of their line manager.
- 10.6 The use of Council tools, equipment, premises and facilities e.g. telephones, photocopying materials, computers (both hardware/software) etc. is strictly forbidden for the carrying out of private work. The Council's resources are only to be used to further the Council's business and as such employees must exercise care in their utilisation so as to not cause any damage to these resources. Additionally, they are not for the personal use of employees or for their private work, paid or unpaid.
- 10.7 Where employees are consumers of Council services, for example, as occupiers of Council property, claimants of benefits, users of leisure services, etc. the Council expects employees to conduct themselves with the highest standard of probity and behaviour.

## **CODE OF CONDUCT FOR EMPLOYEES**

### **11 POLITICAL NEUTRALITY**

- 11.1 Employees serve the whole of the Council and not just the political group in power. The only exception to this are Political Assistants appointed in accordance with s9 of the Local Government and Housing Act 1989.
- 11.2 The individual rights of all Councillors must be respected. On occasions senior officers may be requested to advise or brief political groups. They must make their Strategic Director aware, through their Head of Service, and seek advice to ensure that they do this in ways which do not compromise their political neutrality.
- 11.3 Where an employee holds a politically restricted post, certain restrictions on political activity are incorporated by statute into their contract of employment and must be complied with.
- 11.4 Irrespective of whether or not they hold a politically restricted post, all employees must follow every lawfully expressed policy of the Council.

### **12 EMPLOYMENT MATTERS**

- 12.1 Employees involved in the recruitment process must ensure that all appointments are made on merit. It is unlawful for an employee to make an appointment which is based upon anything other than the ability of the candidate to undertake the duties of the post.
- 12.2 In order to avoid any possible accusation of bias, employees should not be involved in the recruitment process where they are related to an applicant or have a close personal relationship with that person, outside the workplace. In all such circumstances, a declaration of interest must be made by the panel member.
- 12.3 Similarly, employees should not be involved in decisions relating to promotion or pay adjustments for any other employee who is a relative, partner, close personal friend, etc.

### **13 INDEMNIFICATION**

- 13.1 Employees will be indemnified by the Council against liabilities, expenses, loss, damage, claim or proceedings in accordance with the terms of resolution of the Personnel Committee of 20 December 2006. This can be viewed at [http://www.manchester.gov.uk/site/scripts/meetings\\_info.php?meetingID=276&attachmentID=1010#meetingContent](http://www.manchester.gov.uk/site/scripts/meetings_info.php?meetingID=276&attachmentID=1010#meetingContent)

### **14 FINANCIAL RESPONSIBILITIES**

- 14.1 The Council's Financial Regulations safeguard the Council's assets and use of resources and all employees must ensure that they are

## CODE OF CONDUCT FOR EMPLOYEES

familiar with these regulations and comply with them when using financial resources, e.g. when placing orders for goods and services. This is available on the Intranet and can be viewed at <http://www.mcc/citytreasurers/a-z.htm>

14.2 Employees have a duty to use public funds in a responsible and lawful manner and in undertaking their duties, they should strive for value for money for the local community and should try to avoid legal challenge to the Council.

### 14.3 Procurement

14.3.1 As set out in the Financial Regulations, the tendering process must be a fair and transparent procurement process. Employees involved in this process should be clear on their role and those employees who have both a client and a contractor responsibility must demonstrate openness in their work and be accountable under each responsibility.

14.3.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, contractors and sub-contractors and those employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.

14.3.3 When awarding contracts, employees must have no involvement with external contractors or potential contractors, who employ, in a senior or relevant managerial capacity, their partners, close relatives or associates.

### 14.4 Corruption

14.4.1 The procedures by which the Council selects developers or consultants for schemes and for the supply of goods and services is set out in the Council's Financial Regulations and Standing Orders. These are available on the Intranet and can be viewed at <http://www.mcc/citytreasurers/a-z.htm>

14.4.2 Employees must follow these procedures and should be aware that it is a serious criminal offence if they receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity.

14.4.3 If an employee has a pecuniary interest in a contract she/he must register that interest (see para 10.2).

### 14.5 Financial Propriety

14.5.1 Whilst an employee's personal finances should remain private, employees must ensure that where they have a financial relationship

## CODE OF CONDUCT FOR EMPLOYEES

with the Council, outside their contract of employment that these affairs are conducted with honesty and integrity.

- 14.5.2 In all personal financial dealings with the Council, employees must not deliberately evade any debts owed to the Council or seek to obtain monies from the Council to which they are not legally entitled. Financial dealings may include payments relating to Council Tax, benefits, fines, compensation, etc.
- 14.5.3 Employees in breach of these requirements may be subject to disciplinary action which may include summary dismissal where appropriate.

### 15 HOSPITALITY AND GIFTS

15.1 As a general rule offers of hospitality and/or gifts should be declined by employees. However, it is acknowledged that some employees may, as part of their duties and responsibilities, be called upon to represent the Council for example at:

- functions within the community;
- meetings/visits with outside bodies;
- meetings/negotiations with contractors;
- conferences/courses

where hospitality and gifts may be offered.

Before attending any of the above, employees should establish the purpose of the event, be able to justify their attendance and identify an outcome/benefit to the Council.

### 15.2 Hospitality

15.2.1 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. Employees attending such functions must be authorised by their Strategic Director and a record of that permission and details of the hospitality being accepted must be entered into the departmental register of gifts and hospitality.

15.2.2 However, in their role as a representative of the Council, it is not appropriate for employees, either during or outside working hours, to accept lavish entertainment (e.g. banquets, drinks parties, fashion shows, sporting events), and, except where there are discernible benefits to the Council and the appropriate Strategic Director has given approval (which must be recorded in the departmental register),

## CODE OF CONDUCT FOR EMPLOYEES

any such offers should be declined courteously but firmly.

15.2.3 When hospitality is declined, the offer should be courteously but firmly refused and the organiser informed of the procedures and standards operating within the Council. It is advisable for any hospitality which has been declined to be recorded in the departmental register of gifts and hospitality.

15.2.4 When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality. They should be conscious for example that a modest working lunch is acceptable but lavish entertainment is not appropriate.

15.2.5 Hospitality, where it is incidental, is acceptable in the following circumstances:

- through attendance at relevant conferences and courses;
- where it is clear that it is corporate rather than personal;
- where the Council is satisfied that any procurement decisions are not compromised.

15.2.6 Where visits to demonstrations, inspect equipment, etc are required employees should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

### 15.3 Gifts

15.3.1 Employees must not accept gifts from service users, contractors or outside suppliers. Generally, employees may accept insignificant items of token value such as pens, diaries, etc. but aside from items of this nature (see 15.5.3), officers should have the consent of their Strategic Director before accepting gifts and this should be recorded in the departmental register. Additionally employees must not accept any money offered by service users under any circumstances. In all circumstances, the employee's Strategic Director must be informed of the nature of gift received and details of it will be entered into the departmental register of gifts and hospitality.

15.3.2 When a gift is declined, the offer should be courteously but firmly refused and the offeror informed of the procedures and standards operating within the Council. It is advisable for any gift which has been declined to be recorded in the departmental register of gifts and hospitality.

### 15.4 Sponsorship

15.4.1 The standards relating to hospitality and gifts apply equally to situations where an organisation sponsors or wishes to sponsor a



## CODE OF CONDUCT FOR EMPLOYEES

Council activity.

- 15.4.2 In circumstances where the Council wishes to sponsor an event or service, employees must be aware that neither any employee, their partner, spouse, friend or relative must directly benefit from such sponsorship without there being full disclosure to an appropriate manager of any such interest.
- 15.4.3 Similarly, where the Council, through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.
- 15.5 (Specific) Managers' Responsibilities
  - 15.5.1 Strategic Directors, through Heads of Service, must maintain a departmental register of gifts and hospitality.
  - 15.5.2 Attendance of employees at any of the above events should be authorised by the relevant Strategic Director and recorded in the departmental register of gifts and hospitality. In order to avoid jeopardising the integrity of any subsequent purchasing decisions, managers should ensure that costs involved in such visits are met by the Council.
  - 15.5.3 Acceptance of any gifts (other than items of token value such as pens, diaries, mouse mats, badges, scarves, ties etc. which are distributed to all attendees at conferences/courses) should be authorised by the relevant Strategic Director and recorded in the departmental register of gifts and hospitality.
  - 15.5.4 Where employees are given permission to attend functions as outlined above, the Strategic Director must ensure that a written record of the authorisation together with the reason(s) for allowing it is made in the departmental register of gifts and hospitality.
  - 15.5.5 Strategic Directors shall put in appropriate mechanisms within their Directorate for the authorisation and recording of gifts and hospitality.
  - 15.5.6 Any offers of gifts or hospitality that a Strategic Director receives personally should be referred to the Monitoring Officer (or in the absence of the Monitoring Officer the City Treasurer).

## 16 WHISTLEBLOWING/COMPLAINTS

- 16.1 Where an employee becomes aware of any deficiency in service provision, impropriety, fraud, customer abuse, breach of procedure or maladministration, they have a duty to report this to the appropriate level of management.

## **CODE OF CONDUCT FOR EMPLOYEES**

- 16.2 In the event that an employee becomes aware of activities which that employee believes to be illegal, improper, unethical or inconsistent with this Code, the employee must report the matter in accordance with the Council's Whistleblowing Policy. This is available on the Intranet and can be viewed at <http://www.mcc/pmg/policies/conduct/whistleblow.htm>
- 16.3 Complaints from non-employees or members of the public who use Council services in relation to the Code of Conduct will be dealt with through the Council's Complaints procedure. This is available on the Internet and can be viewed at <http://www.manchester.gov.uk/site/scripts/downloads.php?categoryID=200025>

### **17 CONSEQUENCES OF BREACHING THE CODE**

- 17.1 The Council expects the highest standard of personal conduct from all its employees and where an employee breaches the Code of Conduct, the Council's agreed Disciplinary Procedure may be invoked, depending on the circumstances.
- 17.2 Serious breaches of this Code may lead to an employee being dismissed from the services of the Council.

## Section F

# Member / Officer Relations Protocol

# MEMBER / OFFICER RELATIONS PROTOCOL

## SECTION F: MEMBER / OFFICER RELATIONS PROTOCOL

### 1. INTRODUCTION AND PRINCIPLES

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.
- 1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 1.4 It also seeks to reflect the principles underlying the Code of Conduct for Members ("the Members' Code") and the Code of Conduct for Employees ("the Employees' Code"). The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.5 This Protocol should be read in conjunction with the Members' Code and the Employees' Code, the Council's Constitution and any guidance issued by the Standards Committee and/or Monitoring Officer.

### 2. GENERAL POINTS

- 2.1 Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, committees and subcommittees.
- 2.2 At the heart of this Protocol, is the importance of mutual respect. Member/Officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.
- 2.3 A Member should not raise matters relating to the conduct or capability of an Officer at meetings held in public or before the press. This is a long-standing tradition in public service as an Officer has no means of responding to such criticisms in public. If a Member feels they have not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it

## **MEMBER / OFFICER RELATIONS PROTOCOL**

through direct discussion with the Officer, they should raise the matter with the respective Chief Officer. The Chief Officer will then look into the facts and report back to the Member. If the Member continues to feel concern, then they should raise the issue with the Chief Executive. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

- 2.4 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of a Section/Division/Department at or in a manner that is incompatible with the overall objectives of this Protocol. Such matters should be raised with the officers immediate line manager or Chief Officer as appropriate.
- 2.5 Nothing in this protocol shall prevent an officer expressing a relevant concern under the Council's Confidential Whistle blowing Policy.
- 2.6 Where an Officer feels that they have not been properly treated with respect and courtesy by a Member, they should raise the matter with their Chief Officer or the Chief Executive as appropriate. In these circumstances the Chief Officer or Chief Executive will take appropriate action including approaching the individual member concerned or discussing the matter with the Monitoring Officer where they consider there may be a breach of the Members' Code.

### **3. OFFICER SUPPORT TO MEMBERS: GENERAL POINTS**

- 3.1 Officers being employees of the Council must act in the best interests of the Council as a whole and must not give politically partisan advice.
- 3.2 Close personal familiarity between individual Members and Officers can damage professional relationships and can prove embarrassing to other Members and Officers. Situations should be avoided therefore that could give rise to the appearance of improper conduct or behaviour.
- 3.3 Certain statutory officers - the Chief Executive, the Chief Finance Officer and the Monitoring Officer have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members. In particular members are reminded of the duty under the Members' Code to have regard to any relevant advice given by the Chief Finance Officer or Monitoring Officer.
- 3.4 The following key principles reflect the way in which officers generally relate to Members:
  - all officers are employed by, and accountable to the authority as a whole;
  - support from officers is needed for all the authority's functions including full Council, Overview and Scrutiny, the Executive, Regulatory and other ordinary committees, Standards Committee, Joint Committees and individual Members representing their communities etc;

## **MEMBER / OFFICER RELATIONS PROTOCOL**

- day-to-day managerial and operational decisions should remain the responsibility of the Chief Executive and other officers.

- 3.5 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It should be recognised that in these circumstances it is the Officer, rather than the Member or Members, who legally takes the action and it is the Officer who is accountable for it.
- 3.6 Finally, it should be remembered that Officers within a Department are accountable to their Chief Officer and that whilst Officers should always seek to assist a Member, they must not, in so doing go beyond the bounds of whatever authority they have been given by their Chief Officer.

### **4. OFFICER SUPPORT TO THE EXECUTIVE**

- 4.1 It is clearly important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups. Officers must ensure that even if they are predominantly supporting the Executive their political neutrality is not compromised.
- 4.2 Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration on the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a duty to submit a report. Similarly, the Chief Executive, Chief Officer or other Senior Officer will always be fully responsible for the contents of any report submitted in their name.
- 4.3 Where functions which are the responsibility of the Executive are delegated, the Executive will nevertheless remain accountable via the Overview and Scrutiny Committees, for both its decision to delegate a function and the discharge of those functions.
- 4.4 Under Executive Arrangements, individual Members of the Executive are allowed to take formal decisions. In Manchester the circumstances in which individual members of the Executive can take decisions are set out in the constitution. The Executive, Executive members and Officers must satisfy themselves that they are clear what exactly they can and cannot do.

### **5. OFFICER SUPPORT: OVERVIEW AND SCRUTINY COMMITTEES**

- 5.1 Overview and Scrutiny Committees have the following roles:
- to review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
  - make reports and/or recommendations to the full Council and/or the Executive and/or any joint or area committee in connection with the discharge of any functions;
  - consider any matter affecting the area or its inhabitants; and

## MEMBER / OFFICER RELATIONS PROTOCOL

- exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive and area committees exercising executive functions.
- 5.2 It is clearly important that there should be a close working relationship between Chairs of the Overview and Scrutiny Committees and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups. Officers must ensure their political neutrality is not compromised.
- 5.3 It is not the role of Overview and Scrutiny committees to act as a disciplinary tribunal in relation to the actions of Members or Officers. Overview and Scrutiny Committees should not act as a 'court of appeal' against decisions or to pursue complaints by individuals (Councillors, Officers or members of the public) which are the subject of other procedures, e.g. the Corporate Complaints Procedure, the Local Government Ombudsman, complaints to the Standards Committee or legal action in the Courts.

### 6. OFFICER ADVICE TO PARTY GROUPS

- 6.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council. The assistance provided by Senior Officers can take many forms ranging from a briefing meeting with an Executive Member, Lead Member, Chair or other Members prior to a meeting, to a presentation, to a full political group meeting. It is an important principle that such assistance is available to all political groups and individual members
- 6.2 Attendance at Party Political Group Meetings
- There is now statutory recognition for 'party groups' and these are recognised in the constitution. It is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Senior Officers may properly be called upon to assist and contribute to such deliberations by party groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.
- 6.3 Attendance at meetings of party groups is voluntary for officers and must be authorised by the Chief Executive (or in his absence the relevant Strategy Director) or the City Solicitor.
- 6.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
- 6.4.1 Officer assistance must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. Internal party debates and decision making should take place in the absence of officers.

## MEMBER / OFFICER RELATIONS PROTOCOL

- 6.4.2 Party group meetings, whilst they form part of the preliminaries to Council decision making, are not formal decision making bodies of the City Council and are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
- 6.4.3 Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council decision making body when the matter in question is considered.
- 6.5 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Members' Code (in particular, the provisions concerning the declaration of interests and confidentiality). Officers would not be able to provide the same level of information and advice as they would to a Member only meeting.
- 6.6 Officers must respect the confidentiality of any party group discussions at which they are present. When information is disclosed to an officer during discussions with a party group and that information should not be passed on to other groups. However, Members should be aware that this would not prevent officers from disclosing such information to other officers of the Authority so far as that is necessary to performing their duties.
- 6.7 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

## 7. USE OF COUNCIL RESOURCES

- 7.1 The use of the Councils resources including the use of computers provided to Members of the Council is governed by a guidance note 'Use of Council Resources Guidance for Members' which has been adopted by the Council and is contained in the Constitution.

## 8. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 8.1 The rights of members to inspect council documents are set out in the constitution in the Access to Information Procedure rules.
- 8.2. A Member must not disclose information given to him in confidence by anyone or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, or unless they are required by law to do so and must not prevent another person from gaining access to information to which that person is entitled by law. A breach of these requirements is a breach of the Member's Code and actionable by way of referral by the Monitoring Officer of the



## MEMBER / OFFICER RELATIONS PROTOCOL

matter to the Standards Committee. If the breach is serious a civil action may be brought against the Member and / or the Council for damages.

- 8.3 The Freedom of Information Act 2000 (“the 2000 Act”) has brought will bring additional rights and responsibilities regarding the disclosure of information. The right of access under the 2000 Act became fully operational in 2005, alongside the Environmental Information Regulations 2004. The Council is required to proactively publish information via its Publication Scheme and to provide information in response to specific requests, subject to certain conditions and exemptions. The provision relating to access to Council meetings and documentation were amended in 2006 to bring them into line with information rights legislation and those changes are reflected in the Council’s constitution.

### 9. CORRESPONDENCE

- 9.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where it is necessary to copy the correspondence to another Member, (for instance where the Monitoring Officer considers this course of action is necessary to comply with the rules of natural justice), this should be made clear to the original Member. In other words, a system of 'silent copies' should not be employed.
- 9.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It will, however, be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of an Executive Member or the Leader. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise.

### 10. PUBLICITY AND PRESS RELEASES

- 10.1 In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. The Government has issued a **Code of Recommended Practice on Local Authority Publicity** and all local authorities must have regard to the provisions of any such Code in coming to any decision on publicity. Further guidance on publicity and extracts from the Code are contained in the guidance note to members '**Use of Council Resources Guidance for Members**'. In particular members and officers should note that during the election period special rules apply with regard to local authority publicity
- 10.2 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of the Code of Recommended Practice on Local Authority Publicity and any further guidance issued by the Chief Executive. If in doubt Officers and /or Members should seek advice from the Chief Executive or the Monitoring Officer.
- 10.3 All press releases are issued through the Press Office on behalf of the Council. Press releases are not issued by the Council on behalf of political groups. They can contain the comments of Executive members and committee Chairs where they are

## **MEMBER / OFFICER RELATIONS PROTOCOL**

speaking in connection with the roles given to them by Council. Officer's comments can be included on professional and technical issues.

### **11. INVOLVEMENT OF WARD COUNCILLORS**

11.1 Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, Officers should consider whether other policy or briefing papers, or other topics being discussed with an Executive Member, should be discussed with relevant Ward Members.

### **12. OFFICER/MEMBER PROTOCOL**

12.1 This protocol forms part of the local framework for standards of behaviour approved by the Standards committee and adopted by the Council as part of the Constitution.

12.2 Monitoring compliance with this protocol is the responsibility of the Standards Committee and the monitoring officer

12.3 Questions of interpretation of this Protocol will be determined by the Monitoring Officer.

**CODE OF CORPORATE GOVERNANCE**

# **SECTION G**

**MANCHESTER CITY COUNCIL**

**CODE OF CORPORATE  
GOVERNANCE**

# CODE OF CORPORATE GOVERNANCE

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# CODE OF CORPORATE GOVERNANCE

## Introduction

Corporate Governance is “the systems and processes, and cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and where appropriate lead their communities” (CIPFA/SOLACE<sup>1</sup>). Good corporate governance requires local authorities to carry out their functions in a way that demonstrates accountability, transparency, effectiveness, integrity and inclusivity. This Code is a public statement setting out the governance standards the Council will meet to ensure it is doing the right things, in the right way, for the right people in a timely, inclusive, open, honest and accountable manner. The Code is based upon the following six core principles:

1. Focusing on the Council's purpose and community needs
2. Having clear responsibilities and arrangements for accountability
3. Good conduct and behaviour
4. Taking informed and transparent decisions that are subject to effective Scrutiny and risk management
5. Developing the capacity and capability of Members and Officers to be effective and
6. Engaging with local people and other stakeholders to ensure robust public accountability.

The six core principles are based on the Principles of Public Life set out in *The Nolan Committee Report* published in May 1995. The Seven Principles of Public Life which should underpin good governance for public bodies are selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

The challenges posed by diminishing resources and the challenges and opportunities presented by changing public policies, including the introduction of city regions and new rights for communities under the Localism Act, serve to highlight the growing importance of good governance. A range of significant decisions will be taken to respond to these developments and it is important they are taken legally, based on consideration of relevant evidence and in accordance with the principles of this Code.

The Code also describes how the Council's corporate governance arrangements will be monitored and reviewed to ensure they remain fit for purpose and support the Council to achieve its objectives in an effective way. The Council's vision is that Manchester will be a world-class city with a larger population that is wealthier, living longer, healthier, happier lives in communities that are diverse and cohesive. Good governance will enable the Council to pursue this vision in the most effective way.

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<sup>1</sup> CIPFA is the Chartered Institute of Public Finance and Accountancy. SOLACE is the Society of Local Authority Chief Executives.

## THE COUNCIL'S CORPORATE GOVERNANCE PRINCIPLES

### 1. Focusing on the Council's Purpose and Community Needs

**The Council will exercise strategic leadership by developing and clearly communicating its purpose and vision and its intended outcome for citizens and service users.**

The Council via its Members and Officers will develop and promote its purpose and vision through effective engagement with the residents of Manchester and in partnership with key stakeholders to create and implement a vision for Manchester which will lead to better outcomes for Manchester people. In July 2006 the City Council and the other members of the Manchester Partnership<sup>2</sup>, following extensive consultation with local residents, agreed a single shared vision for the city that is set out in Manchester's Community Strategy – "The Manchester Way". The actions necessary to deliver the objectives in the Community Strategy are set out in the Community Strategy Delivery Plan 2012. These actions are overseen by five Thematic Partnerships:

- Children's Board
- Crime and Disorder Reduction Performance Board
- The Health and Wellbeing Board
- The Neighbourhoods Board
- Work and Skills Board.

Manchester's Community Strategy supports progress towards the objectives in the Greater Manchester Strategy which was adopted by the Association of Greater Manchester Authorities (AGMA) in July 2009, and is currently being reviewed. The Greater Manchester Combined Authority (GMCA), created on the 1st April 2011, has new powers to work more effectively on significant issues including transport, regeneration and economic development. In light of this, and changes in national policy and funding, the Community Strategy will be refreshed to set out how progress towards the vision for the city will be achieved. A new 'Strategic Narrative' defining the Manchester Partnership's approach to achieving its objectives has been developed as part of this.

The Council defines its own objectives in bringing about the vision for the city in the Corporate Plan and the business plans for each of its directorates. These documents outline objectives and how they will be achieved, resourced and assured. Business plans are formally adopted by the appropriate Strategic Director(s) and Executive Member(s) following discussion of the plan with elected members through the overview and

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<sup>2</sup> The Manchester Partnership is the Local Strategic Partnership for the Manchester area.

## CODE OF CORPORATE GOVERNANCE

scrutiny process. The objectives are communicated to staff across the Council to ensure they understand their directorate's objectives and how these objectives contribute to the Council's overall objectives and the vision for the city. The Council reviews directorate business plans on an annual basis and makes any necessary amendments to its governance arrangements. Through the business planning and budget setting framework the Council allocates resources to achieve its objectives, as described in the Corporate Plan and Community Strategy. The allocation of resources is set out in the budget reports submitted to Council in March when it sets the budget for the organisation.

The business plans are an important component of the Council's Performance Management Framework, under which the organisation will explain and report regularly on activities, performance and the Council's financial position. Under this framework, the Council will publish:

- An Annual Report outlining the Council's performance in the previous year and a summary of its Financial Accounts
- Independently verified statistical information about the prosperity of the city and the wellbeing of Manchester people through the Intelligence Hub and the suite of 'State of the City' reports including the annual "State of the City" and "Communities of Interest" reports.

**The Council will ensure that service users receive a high quality of service, whether directly, in partnership or by commissioning.**

To do this the Council will:

- Set quality measures for its services and regularly review performance towards these
- Effectively consult, inform and involve residents to ensure that it provides quality services that meet the needs of residents and communities
- Seek feedback from service users and their elected representatives to continuously drive improvement and maintain effective arrangements to identify and deal with failure in service delivery
- Ensure that complaints handling and monitoring procedures are robust so that it can monitor where services are failing to deliver and respond appropriately
- Commission services to meet the needs of the local community, and put in place processes to ensure that they operate effectively in practice and
- Respond positively to the findings and recommendations of external auditors and statutory inspectors and put in place arrangements for the implementation of agreed actions.

**The Council will make best use of resources and ensure that taxpayers and service users receive value for money.**

To do this the Council will:

## CODE OF CORPORATE GOVERNANCE

- Ensure that services are prioritised so that resources are directed to those activities that will have the greatest impact on the outcomes set out in the Community Strategy
- Compare outcomes for Manchester with comparable authorities and other relevant bodies and assess performance against the aspirations for Manchester set out in the Community Strategy
- Compare information about functions, expenditure and performance with those of similar organisations and assessing why levels of economy, efficiency and effectiveness are different elsewhere to ensure the Council provides high levels of value for money
- Procure goods and services at a competitive price which secures value for money for taxpayers
- Ensure that the Council maintains a prudential financial framework; keeps its commitments in balance with available resources; monitors income and expenditure levels to ensure that this balance is maintained and takes corrective action if necessary and
- Consider the environmental impact of its policies, plans and decisions.

Following discussion with elected members a Value for Money Strategy, endorsed by the Chief Executive and Leader of the Council, has been adopted to set out how these principles will be implemented and monitored.



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### 2. Having clear responsibilities and arrangements for accountability

The Council's governance processes will be structured to:

- Clearly define the division of Executive and Non-Executive functions and the roles and responsibilities of the Scrutiny function
- Ensure that a constructive working relationship exists between elected Members and Officers and that their responsibilities are carried out to a high standard and
- Enable the Council to provide visible, accountable and effective leadership to the community in partnership with citizens, businesses and other organisations.

The Council will do this by:

- (i) Appointing a Leader of the Council.

Since the 9 May 2010 the Council has operated the “new-style” Leader and Cabinet form of Executive provided for by section 9C(3) of the Local Government Act 2000 (as amended). Under these governance arrangements, at its Annual Meeting in May each year the Council elects one of its Members to be the Leader, who in turn appoints a minimum of 2 and a maximum of 9 other councillors to the Executive (the Executive Members), one of whom must be appointed by the Leader to act as Deputy Leader. The Leader of the Council is also responsible for determining the Portfolios and the detailed remits of the Executive Members.

Under the Leader and Cabinet governance arrangements the Leader may determine to exercise any of the Council's executive functions personally, or may arrange for the exercise of any of the Council's executive functions by the Executive; by another member of the Executive; by a committee of the Executive; by an officer of the Council or by an area committee.

The Executive Procedure Rules in the Council's Constitution set out how the Leader may change the delegation of the Council's executive functions:

- (a) the Leader must provide the Council's Monitoring Officer with written notice of any changes to the delegation of the Council's executive functions; and
- (b) the Council's Monitoring Officer will maintain a Register of the Delegation of Executive Functions which will record delegations by the Leader of the Council's executive functions.

In accordance with the Localism Act 2011, on the 3rd May 2012 the Council held a Referendum asking the citizens of Manchester whether they wished to change the Council's Executive arrangements to the

## CODE OF CORPORATE GOVERNANCE

elected Mayor and Cabinet form of Executive. The result of this Referendum was that the citizens of Manchester voted in favour of retaining the Leader and Cabinet form of Executive.

(ii) Appointing a Chief Executive accountable to the authority for all aspects of operational management.

The Chief Executive will have a shared understanding of roles and objectives with the Leader of the Council.

(iii) Agreeing a Scheme of Delegation to Committees and Officers in respect of the Council's non-executive functions (i.e. those functions of the Council which are the responsibility of the Council and not the Executive), whereby the Council's non-executive functions are delegated to Committees, Strategic Directors and other appropriate Officers.

(iv) Appointing Statutory Officers that have the skills, resources and support necessary to perform effectively in their roles and ensuring that these roles are properly understood throughout the authority.

The Senior Management Team will include the Section 151 Officer<sup>3</sup> (the City Treasurer) and the Monitoring Officer (the City Solicitor). The role of the Section 151 Officer is in accordance with the CIPFA Statement on the role of the Chief Financial Officer in Local Government and regular monitoring will take place to ensure that the role continues to comply with this statement. The Section 151 Officer will ensure that appropriate advice is given on all financial matters, proper financial records and accounts are kept, and will oversee an effective system of internal financial control.

The Monitoring Officer will ensure that decisions are taken in a lawful and fair way, agreed procedures are followed and that all applicable statutes, regulations and procedure rules are complied with.

(v) Annually appointing Committees to discharge the Council's regulatory responsibilities (e.g. the Council's Planning and Highways Committee).

(vi) Annually appointing Committees to discharge the Council's Overview and Scrutiny responsibilities and maintaining systems to support Members in discharging an effective Scrutiny function.

(vii) Annually appointing a Health and Wellbeing Board.

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• <sup>3</sup> This refers to the officer responsible for making arrangements for the proper administration of the authorities financial affairs under Section 151 of the Local Government Act 1972

## CODE OF CORPORATE GOVERNANCE

In accordance with the Health and Social Care Act 2012, the Council has established a Health and Wellbeing Board whose primary function is to encourage those who arrange the provision of any health or social care services in Manchester to work in an integrated manner for the purpose of advancing the health and wellbeing of Manchester residents. As required by the Health and Social Care Act, the Health and Wellbeing Board includes the Council's Strategic Director, Families, Health and Wellbeing (the statutory Director of Adults Social Services), Strategic Director of Children and Commissioning (the statutory Director of Children's Services) and Director of Public Health, at least one elected Member of the Council, a representative of the Council's Local Healthwatch organisation, a representative of each of the three Clinical Commissioning Groups for Manchester and such other persons as the Council deems appropriate.

(viii) Developing effective ways to implement the Community Right to Challenge, the Community Right to Bid and provisions in relation to Neighbourhood Planning.

The Council is developing a new procedure setting out how it will address any Community Right to Challenge which it receives. A list of "assets of community value" will be open to community interest groups with a local connection (such as parish councils, a designated neighbourhood forum or certain voluntary or community bodies) to nominate land as being of community value. The Council will develop a procedure which sets out how it will deal with any Community Right to Bid and is developing new procedures setting out how it will deal with applications in respect of neighbourhood development plans and neighbourhood development orders that are submitted by a neighbourhood forum.

### **The Council will ensure relationships between the authority, its partners and the public are clear so that each understand the role of the others**

The Council will do this by:

- (i) Publishing and reviewing, annually, (or more frequently if necessary), a Constitution which includes:
  - (a) Schemes of Delegation of both non-executive (Council) and executive functions as described above
  - (b) A Members Allowances' Scheme, developed taking into account the recommendations of an Independent Remuneration Panel who advise on a fair level of remuneration for elected Members
  - (c) Protocols governing Member / Officer relations and the roles of Members and Officers in decision making and
  - (d) Procedures and Protocols regarding the role of Scrutiny.

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(ii) Maintaining a Partnership Governance Framework that defines and standardises the Council's approach to managing its partnerships, in order to help strengthen accountability, manage risk and rationalise working arrangements. In support of its application of the framework, the Council maintains a Register of Significant Partnerships listing all the Council's key partnership arrangements.

The Council will ensure Members and Officers are clear about their roles and responsibilities, both individually and collectively, in relation to the partnerships they are involved in and to the authority.

(iii) Monitoring performance with members of the Manchester Partnership through performance measures including those in the Community Strategy Delivery Plan.

(iv) Inform, consult and involve local residents or representatives of local residents in all significant decisions.

(v) Maintaining specific arrangements for all schools to support them to play a full role in their communities, contribute to the objectives in the Community Strategy and guarantee high standards of governance and probity.

## CODE OF CORPORATE GOVERNANCE

### 3. Good conduct and behaviour

#### **The Council will ensure its values are put into effective practice.**

The Council will foster a culture of behaviour based on shared values, ethical principles and good conduct. The Council's values are **People, Pride, Place**. These values underpin everything the Council does, including how it works with partners and serves its local communities.

#### **People.**

*Every day Council employees will go further to make a difference to the lives of Manchester people. Council employees will treat colleagues, partners and customers with the respect they deserve and believe only their best is good enough.*

#### **Pride.**

*Council employees are proud of the role they play in making Manchester a success. Council employees accept the responsibility invested in them and rise to meet the challenges they need to overcome.*

#### **Place.**

*Council employees celebrate all things Manchester and strive to make Manchester's streets, neighbourhoods and city an even greater place to live, work and visit.*

As a responsible employer, the Council believes that its long-term future and that of the city is best served by respecting the interests of all its stakeholders. This includes employees, the residents of Manchester and their elected representatives, its businesses and visitors and the many partners who all work together to support Manchester to become a world class city.

#### **The Council will ensure Members and Officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance.**

The leadership of the Council will create a climate of openness, support and respect that covers the whole organisation. It will put in place robust arrangements to ensure that Members and employees are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and that arising issues and challenges are identified and addressed.

The Council will do this by establishing and keeping under review:

- Its values
- A Member Code of Conduct and arrangements for dealing with allegations that a Member has acted in breach of the Council's Member Code of Conduct as required by the Localism Act 2011

## CODE OF CORPORATE GOVERNANCE

(such Arrangements to include the appointment by the Council of at least two “Independent Persons” to assist the Council’s Monitoring Officer)

- Maintaining and publishing on its website a Register of Member’s Interests in accordance with the requirements of the Localism Act 2011 and Manchester City Council’s Member Code of Conduct
- Registers of Gifts and Hospitality
- An Employee Code of Conduct
- A Protocol governing Member/Officer relations
- Systems for reporting and dealing with any incidents of wrongdoing including fraud, corruption, bribery and money laundering
- A voluntary Standards Committee composed of elected Members and independent co-opted members, with responsibility for promoting and maintaining high standards of conduct; assisting Members to observe the Member Code of Conduct; overseeing the Council’s Whistleblowing Policy and monitoring the Member/Officer Protocol
- A Personnel Committee to determine the Employee Code of Conduct
- A set of shared values and behaviours to underpin partnership work.

## CODE OF CORPORATE GOVERNANCE

### 4. Taking informed and transparent decisions which are subject to effective scrutiny and risk management

**The Council will be rigorous and transparent about how decisions are taken, and have effective measures to hold decision makers to account. The Council will listen and act on the outcome of constructive scrutiny.**

To do this, the Council will:

- (i) Establish and maintain an effective Scrutiny function which is able to constructively challenge decision-makers, including those who work in partnership with the Council
- (ii) Establish and maintaining an effective Audit Committee to oversee the Council's governance, risk management and internal control arrangements and ensure that they are operating effectively
- (iii) Engage the community in decision making
- (iv) Establish and maintain an accessible system for dealing with customer complaints and
- (v) Put in place and operate arrangements to safeguard Members and employees against conflicts of interest and record interests declared in meeting minutes.

**Decision makers will have good-quality information, advice and support to ensure that the Council delivers services effectively to meet community needs.**

The Council is committed to ensuring:

- that its decision-making processes enable those making decisions to be provided with information that is accurate, relevant, timely and gives clear explanations of technical issues and their implications and
- that appropriate legal, financial and other professional advice is considered as part of the decision-making process.

**The Council will be transparent about how decisions are taken and recorded.**

The Council will do this by:

- (i) Ensuring that, subject to limited exemptions, decisions of Council, the Executive and Committees are made in public, recorded (alongside the reasons and the evidence considered) and that information relating to those decisions is made available to the public
- (ii) Ensuring that residents or representatives of residents are informed, consulted and involved in significant decisions, and their views are made available to those making decisions for their consideration

## CODE OF CORPORATE GOVERNANCE

- (iii) Ensuring that, subject to limited exemptions, key decisions (as defined at Article 13.3 (b) of the Constitution) and other decisions taken by Council Officers under the Scheme of Delegation are recorded and that information relating to such decisions is made available to the public
- (iv) Ensuring that the Council complies with its statutory obligations in relation to access to information, including the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012; and
- (v) Publishing notification of the intention to take key decisions, including through the Forward Plan of Key Decisions.

**The Council will operate a risk management framework that aids the achievement of its strategic and business outcomes and priorities, protects the Council's reputation and other assets and is compliant with statutory and regulatory obligations.**

The Council will ensure that the risk management framework:

- (i) Enables officers to formally identify, evaluate and manage risks
- (ii) Links risks to financial and other key internal controls
- (iii) Involves elected Members in the risk management process
- (iv) Is applied to the Council's key business processes, including strategic planning, financial planning, policy-making and review, performance management and project management
- (v) Includes a risk management policy statement summarising clearly how the risk management framework will be implemented
- (vi) Is applied to the Council's significant partnerships and governance arrangements with schools
- (vii) Includes robust business continuity management practices and
- (viii) Includes effective arrangements for whistle-blowing.

The Council will review and, if necessary, update its risk management framework at least annually. Amendments to the risk management framework, as described in the Risk and Resilience Strategy, are submitted to Audit Committee for consideration. It will also ensure that there is appropriate training and awareness-raising activity to ensure that risk management is embedded into the culture of the authority, with elected Members and managers at all levels recognising that risk management is part of their jobs.

**The Council will ensure that it collects, uses, shares and stores information and data appropriately.**

The Council will safeguard the personal data it holds and share this data only in circumstances permitted by law. It will do this by establishing and keeping under review thorough policies relating to records management, data quality, data protection and information security and by carrying out training and awareness raising on data protection and essential practices in protecting information.



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The Council will adhere to the Code of Recommended Practice for Local Authorities on Data Transparency. The Council will publish data on its performance in a timely manner and clear format and will comply with requests to publish data whenever this is in the public interest. The Council publishes a statement of its policies on pay and remuneration of officers in accordance with Section 38 of the Localism Act 2011 as well as information on the organisational structure and senior posts and post holders in line with the Data Transparency Code. The Council also publishes details of supplier transactions over £500.

### **The Council will use its legal powers to promote its values and priorities to the full benefit of the citizens and communities in Manchester.**

The Council will use its full powers, including the 'general power of competence', to the benefit of people in Manchester. The Council will have full regard to the extent of its powers and not act beyond them, and will observe specific requirements in legislation as well as general responsibilities of public law. The Council's decision making process will adhere to the principles of good administrative law, respect human rights and demonstrate rationality, legality and natural justice.

## CODE OF CORPORATE GOVERNANCE

### 5. Developing the capacity and capability of Members and Officers to be effective

**Ensuring Members and Officers have the skills, knowledge, experience and resources they need to perform well in their roles.**

Effective local government relies on public confidence in Members and in Officers. Good governance strengthens credibility and confidence in public services. Governance is strengthened by the participation of people with many different types of knowledge and experience. The Council is committed to ensuring Officers and Members are equipped to address the challenges facing the Council, including the need to transform public services to support the objectives for the City with fewer resources.

The Council will support this by:

- (i) Where external recruitment takes place, encouraging individuals from a range of backgrounds and communities to join the Council, for example through the Apprenticeship scheme
- (ii) Providing induction and training programmes tailored to individual needs and opportunities for Members and Officers to update their knowledge on a regular basis
- (iii) Ensuring that statutory officers have the skills, resources and support necessary to perform effectively in their roles and ensure that these roles are properly understood throughout the authority and
- (iv) Encouraging flexibility and continuous development aligned to the principles of **m.people**, the Council's workforce management approach agreed by Personnel Committee and the Trade Unions in November 2010. **M.people** was developed to support the Council's transformation objectives and to achieve a smaller, more agile and more highly skilled workforce.

**The Council will develop the capability of people with governance responsibilities, evaluate their performance and ensure that all staff understand the importance of governance within their role.**

The Council will do this by:

- (i) Providing effective training and guidance for Members and Officers to understand their governance responsibilities
- (ii) Assessing the skills required by Members and Officers and making a commitment to develop those skills to enable roles to be carried out effectively and
- (iii) Developing skills on a continuing basis to improve performance including the ability to scrutinise and challenge and recognise when an external perspective is required.

## CODE OF CORPORATE GOVERNANCE

In support of measures to develop the capacity and capability of Members and Officers to be effective, the Council will continue to:

- Support elected Members in their roles as community leaders and representatives through ward co-ordination and casework support as well as their role as decision makers by administering the decision making process and providing appropriate advice, training and guidance.
- Provide bespoke administrative support for Executive Members and support the overview and scrutiny process by appointing a dedicated senior officer to support each scrutiny committee
- Maintain a Member Development Working Group comprising elected members which oversees the development and implementation of the Member Development Strategy
- Develop leadership programmes for Members
- Cascade regular information to Members and officers
- Implement the Council's revised People Strategy, agreed by the Personnel Committee in March 2012, which sets out the organisation's vision for its workforce for 2015 aligned to the objectives in the Community Strategy
- Achieve and maintain the Investor in People Standard
- Develop the workforce in accordance with the *m.people* principles, supporting development and flexibility to align skills and resources to organisational need now and in the future
- Develop workforce plans which assess how the workforce needs to develop and change over time to meet the needs of the Council in delivering services
- Develop leadership programmes to support the workforce to meet the leadership challenges of the future and
- Promote a set of core competencies for managers, which include skills and knowledge relating to ethical governance.

**The Council will ensure there are accessible opportunities for people to engage with the work of the authority and to seek election to the authority.**

To do this the Council will:

- Ensure that effective arrangements are in place designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority
- Communicate the work of the authority and ways to get involved through a wide variety of accessible channels
- Administer and support a Youth Council to ensure young people can become involved with the work of the Council and
- Hold briefings prior to each election for people interested in standing for election to the authority.

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### 6. Engaging with local people and other stakeholders to ensure robust public accountability

**The Council will exercise leadership through a robust scrutiny function that effectively engages local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships.**

To do this the Council will:

- Make it clear to whom the Council is accountable and for what
- Assess the effectiveness of its relationships with external stakeholders to whom it is accountable and make any changes as required
- Operate an effective overview and scrutiny function and communicate its outcomes to stakeholders, including through news reports on the Council website
- Harness elected Members' understanding of community needs through the scrutiny function to focus on how Council services and services delivered by local partners meet people's needs and
- Maintain an effective internal audit function operating in accordance with the 'Code of Practice for Internal Audit in Local Government' issued by CIPFA and the IIA's Public Sector Internal Audit Standards. Self-assessments against these requirements are carried out as part of the annual review of the effectiveness of the system of Internal Audit.

**The Council will take an active and planned approach to dialogue with, and accountability to, the public to ensure effective and appropriate service delivery whether directly by the authority, in partnership or by commissioning.**

The Council will discharge this role by:

- Developing and maintaining effective relationships with leaders of other organisations that can contribute to the vision for the city
- Providing and supporting ways for citizens to present community concerns to the Council and its partners, both directly and via their elected representatives through processes such as Ward Co-ordination, a process which helps ensure services are tailored to the meet the different needs of local neighbourhoods and helps improve Council and other public services for the benefit of local people, and the Councillor Call for Action
- Informing, consulting and involving residents of Manchester on issues of interest to them, including through the Council's online consultation portal, and maintaining effective channels for dialogue and debate
- Establishing and maintaining effective and clear relationships with public, private and voluntary and community sector organisations (including through the Manchester Compact) which contribute to the well being of Manchester residents

## CODE OF CORPORATE GOVERNANCE

- Working with partners to continuously strive to improve the equality of access to public services to all Manchester communities and adhering to the Public Sector Equality Duty
- Implementing the Manchester Partnership Community Engagement Strategy by engaging with all sections of the city's diverse communities using the Community Engagement Toolkit, which provides managers and staff with comprehensive practical guidance and contacts
- Ensuring that the City Council and Manchester Partnership are accountable to local people, through their elected representatives, for the delivery of the Community Strategy through the Overview and Scrutiny process
- Building public awareness to promote electoral registration and participation and confidence in the integrity of the electoral process; and
- Learning from complaints and other feedback on service delivery

**The Council will take a planned approach to meeting its responsibilities to staff in terms of consultation and engagement with a focus on agreeing and enacting policies and protocols which make best use of human resources.**

To do this the Council will:

- Maintain a clear and consistent policy on consulting staff and their representatives on decisions concerning the terms and conditions of their employment and policies which they are subject to
- Take into account best practice standards in areas including recruitment and staff terms and conditions
- Provide open and transparent access to information for staff and their representatives
- Communicate to staff the challenges facing the organisation and the changes it is going through to meet those challenges and
- Ensure all staff have access to appropriate staff policies and practices.

## CODE OF CORPORATE GOVERNANCE

### Monitoring and Review

This Code will be reviewed on an annual basis to ensure it is kept up to date. Where the review identifies that changes to the Code are necessary, the revised Code will be submitted to Standards and Audit Committee for comments before being incorporated within the Council's Constitution.

The Council has three Committees that are jointly responsible for monitoring and reviewing the Council's Corporate Governance arrangements. These Committees are:

- Audit Committee - responsible for approving the Council's annual accounts overseeing the effectiveness of the Council's governance and risk management arrangements, the internal control environment and associated anti-fraud and anti-corruption arrangements.
- Finance Scrutiny Committee – which oversees the Council's financial management and how it works with partners to deliver the shared ambitions in the Community Strategy
- Standards Committee – with responsibility for promoting and maintaining high standards of conduct; assisting Members to observe the Member Code of Conduct; overseeing the Council's Whistleblowing Policy and monitoring the Member/Officer Protocol.

Full terms of reference for each of these Committees are included in the Council's Constitution.

The Council will ensure that these arrangements are kept under continual review by updating, as appropriate, these Committees on:

- (a) The work of Internal and External Audit
- (b) The opinion of other review agencies and inspectorates
- (c) Opinions from the Council's Statutory Officers
- (d) General matters relating to the implementation of this Code of Corporate Governance
- (e) Reports prepared by managers with responsibility for aspects of this Code of Corporate Governance and
- (f) The production of the Annual Governance Statement and actions planned to address arising governance issues.

All Members of the Council are informed of the work of these Committees through minutes submitted to Council.

### **The Annual Governance Statement**

Each year the Council will publish an Annual Governance Statement to accompany the Annual Accounts providing an overall assessment of the Council's corporate governance arrangements and how it is adhering to the governance standards set out in this Code. The Statement will include an appraisal of the key controls in place to manage the Council's principal governance risks and the effectiveness of systems and processes governing

## **CODE OF CORPORATE GOVERNANCE**

decision making and financial control. The Statement will also provide details of where improvements need to be made.

Evidence relating to the six principles of this Code is reviewed and analysed to assess the robustness of the Council's governance arrangements. Actions to identify significant governance issues are identified and recorded in an action plan.

The Annual Governance Statement is audited by the Council's external auditors as part of the audit of the annual accounts.

# **PART 7**

## **MEMBERS' ALLOWANCES SCHEME**



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## MEMBERS' ALLOWANCES SCHEME

# MEMBERS' ALLOWANCES SCHEME

Manchester City Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003 has agreed the following Scheme after having regard to recommendations of the Independent Remuneration Panel.

### **1.0 CITATION**

1.1 This Scheme may be cited as the Manchester City Council Members' Allowances Scheme, and has effect from the date approved by a meeting of Full Council.

### **2.0 INTERPRETATION**

2.1 In this Scheme,

- "Member" means an elected representative of Manchester City Council who is a Councillor.
- "Co-optee" means a person who is not a member of the Council but who has been appointed to serve as a member of a committee or sub-committee of the Council
- "Year" means the period of 12 months ending on 31 March

### **3.0 BASIC ALLOWANCE**

3.1 A basic allowance of the amount specified in Schedule 1 is payable each Year to each Member. The basic allowance is inclusive of provision for all telephone expenses (including mobile phone), travel and subsistence, office and all other expenses incurred in carrying out a Members' duties except where otherwise provided for in this Scheme or where facilities are provided free to Members by the Council.

### **4.0 SPECIAL RESPONSIBILITY ALLOWANCE**

4.1 A special responsibility allowance is payable to those Members who hold the special responsibilities in relation to the Council. The special responsibilities and the amounts of allowance payable are specified in Schedule 1.

4.2 Only one special responsibility allowance is payable to each Member except in respect of members of the Greater Manchester Waste Disposal Authority, members of the Transport for Greater Manchester Committee (not being the Chair, a Vice-Chair or Sub-Committee

## **MEMBERS' ALLOWANCES SCHEME**

Deputy Chair), members of the Licensing Committee (not being the Chair or Deputy Chair) or where otherwise indicated.

### **5.0 ANNUAL UPDATING AND BACKDATING OF ALLOWANCES**

- 5.1 The allowances referred to in paragraphs 3 and 4 will be increased yearly following the Annual General Meeting of the Council in line with the percentage increase in that financial year for a local authority employee at spinal column point 49.
- 5.2 Provision may be made for the backdating of allowances within the current municipal year where specifically recommended by the Independent Remuneration Panel.

### **6.0 CHILD CARE AND DEPENDANT CARERS ALLOWANCES**

- 6.1 A child care and dependant carers allowance may be claimed where a Member incurs expenditure in arranging care of their child or children under the age of 14 and / or dependants when undertaking specific duties. These duties are set out in Schedule 2 together with the amount that can be claimed.
- 6.2 A maximum of 14 hours per week can be claimed and only one claim may be made for each household.

### **7.0 TRAVELLING AND SUBSISTENCE ALLOWANCES**

- 7.1 A Member may be reimbursed in respect of the cost of travelling and subsistence for journeys outside Manchester and in respect of travel undertaken in connection with attendance at Adoption or Fostering Panels, meetings of the Local Government Association (LGA); Association of Greater Manchester Authorities (AGMA); North West Regional Authority (NWRA); Nuclear Free Local Authorities (NFLA); the Transport for Greater Manchester Committee (TfGMC); and approved conferences, seminars and approved Council business trips.
- 7.2 Attendance at conferences, seminars and other council business trips must be approved in advance by the appropriate Executive Member and Chief Officer.
- 7.3 All claims should be supported by receipts.
- 7.4 The conditions and rates are set out in Schedule 3.

### **8.0 CO-OPTTEES' ALLOWANCE**

- 8.1 A co-optees allowance is payable to those Co-optees serving on the Standards Committee and the Children and Young People Overview and Scrutiny Committee, the amounts of which are detailed in Schedule 1.

## **MEMBERS' ALLOWANCES SCHEME**

8.2 This allowance will be paid in a single lump sum at the end of the municipal year and will only be paid to those members, who have attended at least 50% of the meetings, which they have been entitled to attend during that year.

### **9.0 RENUNCIATION**

9.1 A Member or Co-optee may, by notice in writing to the City Solicitor, elect to forgo any part of their entitlement to the basic or special responsibility allowance under this Scheme. Any such decision will remain in force until a further notice in writing withdrawing it is made to the City Solicitor.

### **10.0 PART YEAR ENTITLEMENTS**

10.1 Where a Member holds the office of Member for less than a full Year, the Member's entitlement to the basic allowance will be calculated on a pro rata basis by reference to the number of days the Member holds the term of office to the total number of days in that particular year.

10.2 Where a Member holds an office of special responsibility for less than a full Year, the Member's entitlement to the special responsibility allowance will be calculated on a pro rata basis by reference to the number of days the Member holds the special responsibility to the total number of days in that year.

10.3 Where a co-opted Member holds an office attracting an allowance for less than a full year the co-opted Member's entitlement will be calculated on a pro-rata basis by reference to the number of days the co-opted Member holds the office to the total number of days in that particular year.

10.4 Appropriate adjustments will be made in respect of any basic or special responsibility allowance if any changes are made to the Scheme during the year from which this Scheme has effect.

### **11.0 CLAIMS AND PAYMENT OF ALLOWANCES**

11.1 Payments in respect of the basic and special responsibility allowances, will be made in instalments of one-twelfth of the amount of entitlement two weeks in arrears, 2 weeks in advance. Payment will be made through the payroll system on the same date as that applicable to employee salaries.

11.2 Claims for child carer and dependant carer, travel and subsistence allowances should be made on the approved forms, together with supporting receipts to the relevant Members' Services by no later than one month from the date of the duty in respect of which the entitlement to the allowance arose.

## **MEMBERS' ALLOWANCES SCHEME**

11.3 All payments will be made through the payroll system and will be taxable.

### **12.0 PENSIONS**

12.1 All Members are entitled to access to the Local Government Pension Scheme, made under section 7 of the Superannuation Act 1972.

12.2 Both the basic and special responsibility allowances shall be treated as amounts in respect of which such pension is payable.

### **13.0 NOTIFICATION FEE**

13.1 The Council will bear the cost of the annual registration fee payable by Members to the Information Commissioner in respect of data protection registration relating to their constituency work.

### **14.0 MISCELLANEOUS**

14.1 Members who use their own broadband connection for Council business and who do not have a data line provided by the Council shall receive a payment of £15.00 per month (£180.00 per annum) provided the claim is supported by receipts or evidence of the broadband account.

## MEMBERS' ALLOWANCES SCHEME

**Schedule 1****Basic and Special Responsibility Allowances**  
**2013/14**

Band			Basic Allowance £	Special responsibility allowance £	Total £
1	Members not in receipt of special responsibility allowance	66	15,956	-	
2	<i>Opposition Lead Member on Finance#</i>	1	15,956	1,679	17,635
3	Deputy Chair of Licensing and Appeals Committee Deputy Chair of Planning and Highways Committee	2	15,956	3,358	19,314
4	Elected Member on Adoption Panel**	1	15,956	5,400	21,356
5	Deputy Leader Opposition Assistant Executive Members <i>City Centre Spokesperson#</i> Elected Member on Fostering Panel **	9	15,956	6,706	22,662
6	Overview and Scrutiny Chairs Chairs of Licensing and Appeals, and Planning and Highways Committees, Airport Group Board Member	9	15,956	10,066	26,022
7	Executive Members Deputy Leader(s) Leader of Opposition	9	15,956	16,759	32,715
8	Leader	1	15,956	39,848	55,804
Extra	Ordinary member of the Licensing and Appeals Committee (not including	13		505	

## MEMBERS' ALLOWANCES SCHEME

	Chair and Deputy Chair)				
	Chair – GMWDA*			12,000	
	Vice-Chair GMWDA*			5,400	
	Deputy Chair of Committee - GMWDA*			2,600	
Extra	Member - GMWDA* (not in receipt of other GMWDA allowance)			2,100	
	Chair – TfGMC*			28,250	
	Vice-Chair – TfGMC*			14,125	
	Deputy Chair of TfGMC* Sub-Committee			5,050	
Extra	Member – TfGMC (Not in receipt of other TfGMC allowance)*			3,825	

\* The Council appoints 3 members to GMWDA and 5 members to TfGMC.

# The postholder has waived their entitlement to this allowance.

\*\* If more than one Member carries out either role, the special responsibility allowance will be split on a pro-rata basis.

### Co-opted Members Allowances 2012/13

	Posts	Allowance
Children and Young People Scrutiny	8	873
Audit Committee	2	
Standards Committee Chair - annually	1	1,679
Standards Committee Independent Member - annually	1	873
...plus daily allowance for each hearing, assessment or review attended: - as Chair of the panel		156
- as Panel Member		104

## MEMBERS' ALLOWANCES SCHEME

### Schedule 2

Child Care and Dependant Carers Allowance 2013/14

#### 1. Authorised Duties

A Childcare and Dependant Carers' Allowance can be claimed where Members necessarily incur expenditure in arranging care of their children or dependants when undertaking the following particular duties:

- A meeting of the Executive or a Committee of the Executive.
- A meeting of the full Council or of a Committee or Sub-Committee of the Council.
- A Ward Co-ordination meeting
- Attendance at a members training/briefing seminar
- A meeting at which an Executive Member is discharging functions with which they have been delegated or any other duty for the purposes of, or in connection with, the discharge of the functions of the Executive.
- A meeting of any other body or of a Committee or Sub-Committee of any other body to which the Council makes appointments or nominations.
- A meeting which has both been authorised by the full Council, a Committee or Sub-Committee of the Council or a Joint Committee of the Council and one or more other Authorities, or a Sub-Committee of a Joint Committee and the invitation to which was open to representatives of more than one political group (if the Council is divided into several political groups) or to which two or more Councillors have been invited (if the Council is not divided into political groups).
- A meeting of a local authority association of which the Council is a member.
- Duties undertaken on behalf of the Council in pursuance of any Regulations made under section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened.
- Duties undertaken on behalf of the Council in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises.
- Duties undertaken on behalf of the Council in connection with arrangements made by the Council for the attendance of pupils at a school approved for the purposes of section 342 of the Education Act 1996.

#### 2. Basis of Claim



## MEMBERS' ALLOWANCES SCHEME

To support the claim made, you need to provide:

- Name(s) of person for whom care was provided
- The age of the person for whom care was provided if a child or children were under 14 years old.
- The name of the person providing the care. This cannot be a member of the immediate family or household.
- A Receipt

### 3. **Time Claimed For**

A Claim can be made for the actual period of the meeting plus reasonable travelling time before and afterwards (up to a maximum of one hour in total).

### 4. **Amount Claimed For**

For the independent care of a child under the age of 14 or for the care of a dependent relative the maximum hourly rate will be the minimum wage as updated annually. The current rate is £6.19 per hour as of October 2012. A maximum of 14 hours per week will be payable and only one claim may be made per household.

### 5. **Payment Arrangements**

Claims will be paid along with all other allowances via the monthly payroll. Any deduction necessary following verification of the claim will be made from the next months allowance payment.

**Schedule 3**  
**Travelling and Subsistence Allowances**  
**2013/14**

**TRAVEL ALLOWANCE**

Motor Car (Capacity)	Rate (pence per mile)
451 – 999cc	46.9
1000 – 1199cc	52.2
1200cc +	65.0
Motorcycles	46.9
Cycle Allowance	1.37

**[Note: Members of GMWDA receive HMRC Mileage Rates:  
Cars 45p  
Motorcycles 24p  
Bicycles 20p]**

1. Use of own vehicle

Members are allowed to use their own vehicles for approved journeys, subject to this guidance. Where the appropriate mileage rates apply, the rates per mile for different vehicles will be the same as the rates payable to employees.

Members using their own vehicles must register this use with Members' Services by submission of copies of the registration document and an up to date copy of the insurance certificate. The insurance policy must approve the use of the vehicle in connection with Council business. If the insurance does not extend to Council business use then there will be no protection for Members in the event of an accident.

2. Long Distance Journeys

Members would not normally be expected to use their own vehicles for long distance journeys (conferences, business trips etc.) unless it can be demonstrated that the cost to the Council would be less than travel by train, e.g. where a number of Members are going to the same destination and will be travelling in the same car.

There may be cases where it may be more practical to use a Member's own vehicle. In these cases and subject to prior agreement with the Chief Executive a claim may be made equivalent to the rail fare, which would have otherwise been incurred.

3. Passenger Supplement

## MEMBERS' ALLOWANCES SCHEME

Drivers of passengers who would also be entitled to claim the motor car allowance can increase the rate by a set amount for the second and subsequent passengers up to a maximum of 4 passengers.

### 4. Parking

Drivers may also claim for essential parking fees and tolls (receipts must be supplied).

### 5. Public Transport

Cost of fare(s) incurred will be reimbursed. Tickets(s) or other receipts should be attached to the claim form. Arrangements will continue to be made for annual bus/metrolink passes to be provided for those members who use public transport regularly.

### 6. Taxis

Taxis should only be used in case of emergency, where use of public transport is not practical or where a Member has a medical condition which results in temporary impaired mobility. Taxis in Manchester should be booked through the Members' Services using the Council's taxi contract. If this is not possible due to the individual circumstances, a receipt must be obtained which should be submitted with the claim form.

### 7. Travel by Train/Aircraft (Conferences, Council Business Trips etc.)

In all normal circumstances, tickets must be pre-booked by the Members' Services using the Council's contract with a travel agency. The only exception will be where notice of less than 24 hours is given to a Member to travel on behalf of the Council and urgent arrangements have to be made for tickets. If a Member has to make her/his own arrangements, receipts must be provided before reimbursement can be made.

## SUBSISTENCE ALLOWANCE

Allowance	Rates (£)	Condition
Breakfast	4.92	For more than 2 hours duty before 11am
Lunch	6.77	For more than 2 hours duty including the period between 12 noon and 2 pm
Tea	2.67	For more than 3 hours duty including the period 3pm to 6pm
Dinner	8.38	For more than 2 hours duty ending after 7pm

1. Subsistence may be claimed for breakfast, lunch, tea and dinner, the maximum amounts claimable will be the same as the rates payable to employees. Breakfast, lunch and tea subsistence claimed for meetings in the Town Hall buildings will be taxable. Reimbursement cannot be claimed for meals which have been provided free of charge.

## MEMBERS' ALLOWANCES SCHEME

2. Before being eligible for claim the following minimum hours set out in the table above must be worked by Members in connection with the event involved. The times include not just the duration of the meeting but also travelling time to and from the meeting.
3. All claims must be supported by a receipt. Receipts must relate to meals, or foodstuffs, which could reasonably be considered to have been consumed at the particular meal claimed for.
4. Separate receipts must normally be submitted for each meal allowance claimed.

Roll-up of allowances will be allowed if the circumstances did not make it reasonable or practical to take up some of the entitlements, provided that:

- the total of all claims does not exceed the combined allowances for,
- all the meals claimed,
- all claims relate to the same day, and
- the food was not otherwise provided for any of the meals claimed.

For example, a Member returning from a conference after 3.00pm and arriving home after 7.00pm could combine the tea and evening meal allowances towards the cost of an evening meal. They would not however, be permitted to include the lunch allowance if this had been provided at the conference.

5. Overclaims on one meal may be offset by underclaims on another provided that the total of all claims does not exceed the combined allowances for all the meals claimed.

Overclaims will be considered on individual meals in exceptional circumstances where it can be shown that there is no reasonable alternative. For example, this might apply if a member was staying at a hotel, which did not include breakfast in its overnight rate and the breakfast provided cost in excess of the standard allowance. Additional costs would not be allowed if they related to alcoholic drinks or other items, which would not normally be considered appropriate.

6. Claims will not be allowed where a meal is provided at an event which a Member is attending but the Member chooses to buy food elsewhere. Such expenditure would be considered an unnecessary increase in cost to the Council.
7. Hotel accommodation required by Members for conferences, seminars, Council business trips etc., should be pre-booked by the Members' Services through the Council's contract with a travel agency. In exceptional circumstances Members will be reimbursed where this is not possible due to the urgency of the situation.

### **NOTE:**

Councillors are reminded of the need to ensure that claim forms are submitted as near as possible after the expenses have been incurred, and in any event no later than a month afterwards. Failure to submit claims in good time could involve the

## **MEMBERS' ALLOWANCES SCHEME**

Council losing money, where reclaims from outside bodies are involved, or lead to a delay in processing the claim because of difficulties in checking. All claim forms must be certified by [the Chief Executive or an officer appointed by the Chief Executive to certify these claims].

# **PART 8**

## **MANAGEMENT STRUCTURE**

# Management Structure

## Strategic Management Team (SMT)

- Chief Executive
- Deputy Chief Executive (Performance)
- Deputy Chief Executive (Neighbourhoods)
- City Treasurer / Strategic Director (Corporate Services)
- City Solicitor
- Strategic Director (Children's Services **and Commissioning**)
- Strategic Director (**Families**, Health & Wellbeing)
- **Director of Education and Skills**
- Chief Executive, New East Manchester Ltd & Strategic Development Lead

## Chief Officers

- The members of SMT, excluding the Director of Education and Skills.

## Statutory Officers

- **Head of the Paid Service** - Chief Executive
- **Chief Finance Officer** - City Treasurer
- **Monitoring Officer** - City Solicitor
- **Director of Children's Services** - Strategic Director (Children's Services and Commissioning)
- **Director of Adult Social Services** - Strategic Director (Families, Health & Wellbeing)
- **Director of Public Health** - Director of Public Health and Partnerships
- **Deputy Chief Finance Officer** - Assistant Chief Executive (Finance and Performance)
- **Deputy Monitoring Officer** - Assistant City Solicitor / Deputy Monitoring Officer
- **Scrutiny Officer** - Head of Democratic and Statutory Services

## MANAGEMENT STRUCTURE

### Heads of Service / Deputy Chief Officers

<u>Directorate/Division</u>	<u>Head of Service/Deputy Chief Officer</u>
<b>Performance</b>	Assistant Chief Executive (Finance and Performance)* Assistant Chief Executive (People) Assistant Chief Executive (Communications & ICT)**
<b>Regeneration</b>	Assistant Chief Executive (Regeneration)*** Director of Housing Head of Planning Head of Regeneration Head of City Policy Head of Manchester Adult Education Service
<b>Corporate Services</b>	Assistant Chief Executive (Finance and Performance)* Interim Head of Corporate Property Capital Programme Director Head of Corporate Procurement Head of Revenues & Benefits and Shared Services Head of Internal Audit and Risk Management
<b>Children's Services &amp; Commissioning</b>	Head of Strategic Commissioning Senior Strategic Lead (Children's Safeguarding)
<b>Families, Health &amp; Wellbeing</b>	Head of Business Delivery Head of Care Director of Public Health & Partnerships
<b>Neighbourhood Services</b>	Assistant Chief Executive (Neighbourhood Strategy & Delivery) Director of Commercial Services Head of Community & Cultural Services Head of Business Units
<b>City Solicitor's</b>	Head of Legal Services Head of Democratic & Statutory Services Assistant City Solicitor / Deputy Monitoring Officer



## MANAGEMENT STRUCTURE

<b>Chief Executive's Direct Reports (non-SMT)</b>	Assistant Chief Executive (Communications & ICT)** Assistant Chief Executive (Regeneration)*** Head of City Centre Regeneration Deputy Clerk TfGMC and Head of GM Integrated Support Team
<b>Strategic Development</b>	Strategic Lead Strategic Lead

\* The Assistant Chief Executive (Finance and Performance) reports to the City Treasurer in relation to the leadership of financial management and to the Deputy Chief Executive (Performance) in relation to the leadership of Public Intelligence and Performance

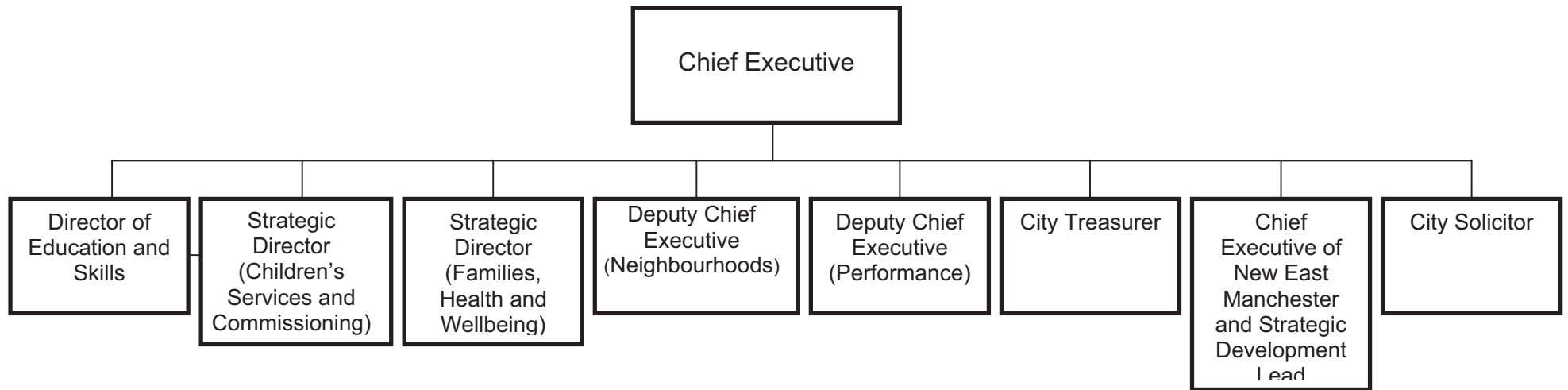
\*\* The Assistant Chief Executive (Communications & ICT) reports directly to the Chief Executive in relation to the communications portfolio and to the Deputy Chief Executive (Performance) in relation to other responsibilities

\*\*\* The Assistant Chief Executive (Regeneration) reports directly to the Chief Executive

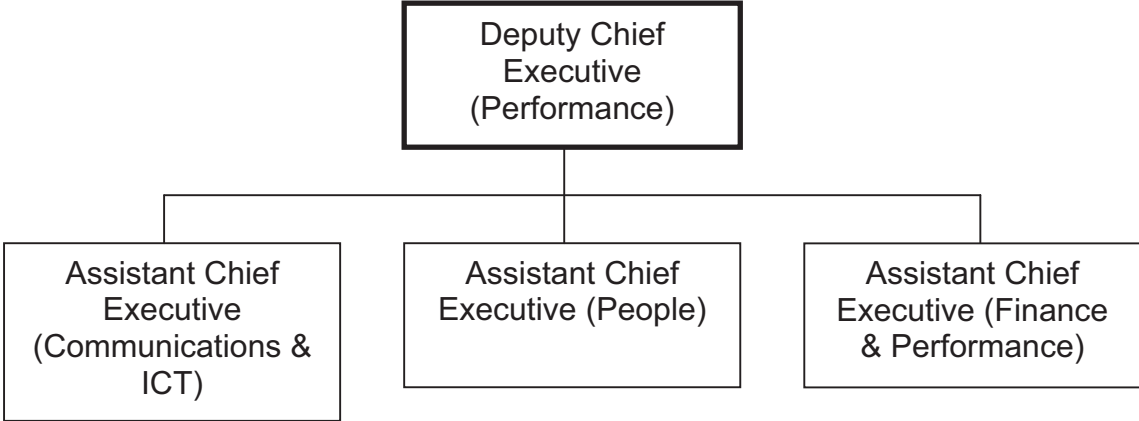
Additional information on the Council's structure is published within the 'Open Data' section of the Council website in accordance with the DCLG Code of Recommended Practice on Data Transparency

The management structure under the Director of Education and Skills is still under development at this stage.

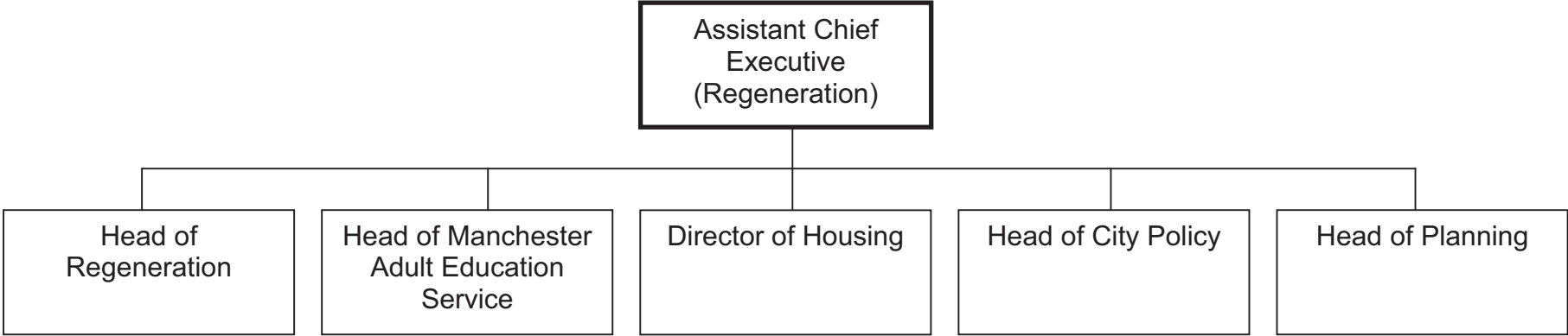
## Strategic Management Team



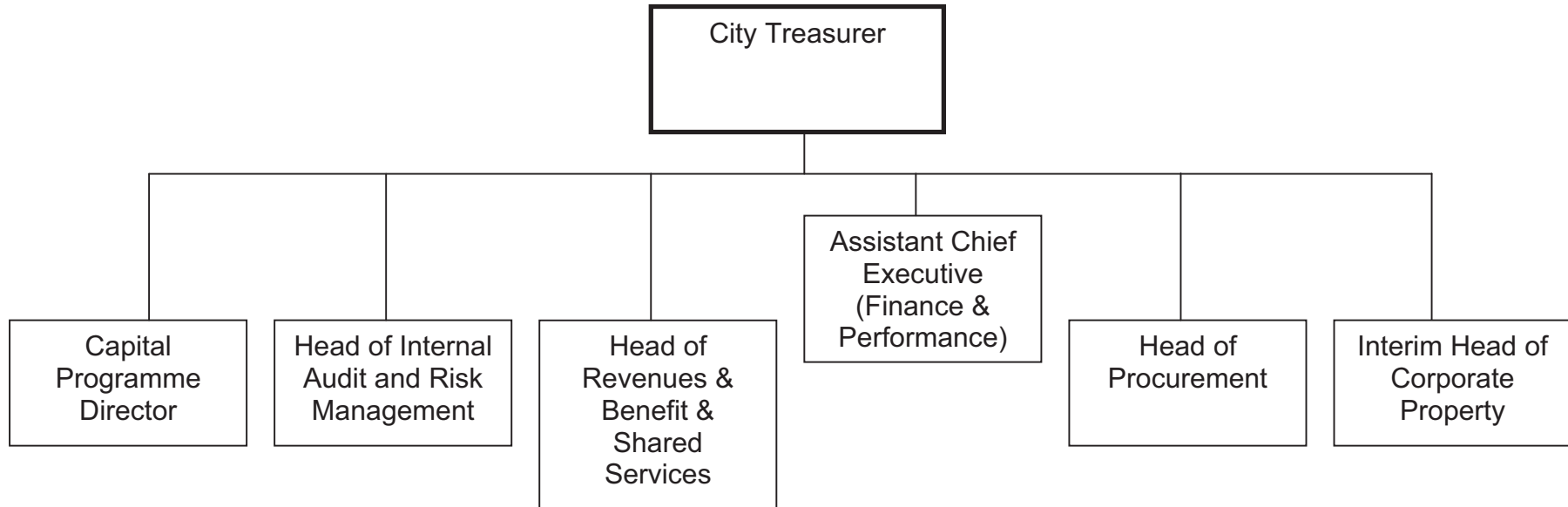
**Performance**



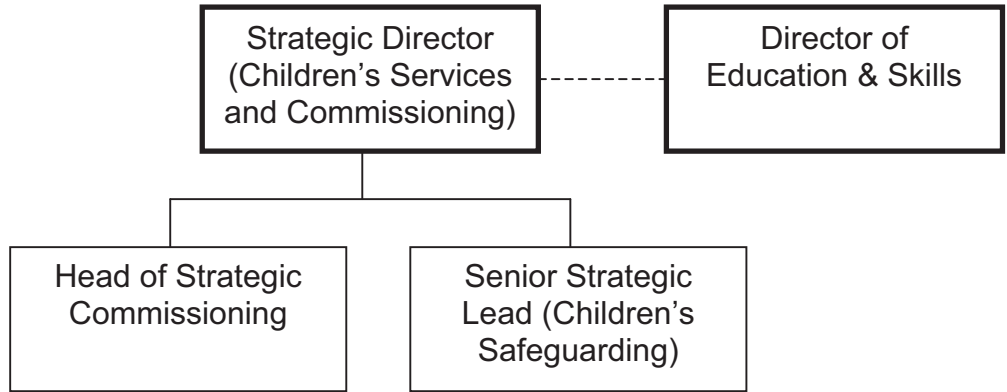
**Regeneration**



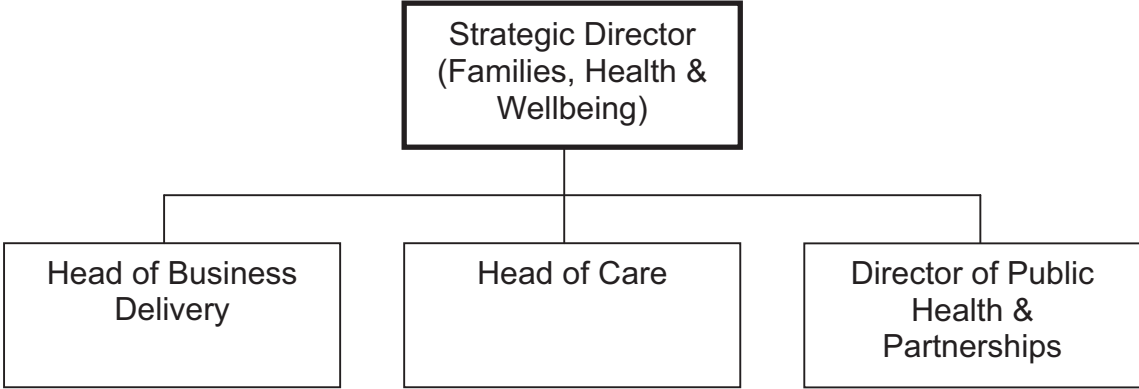
## Corporate Services



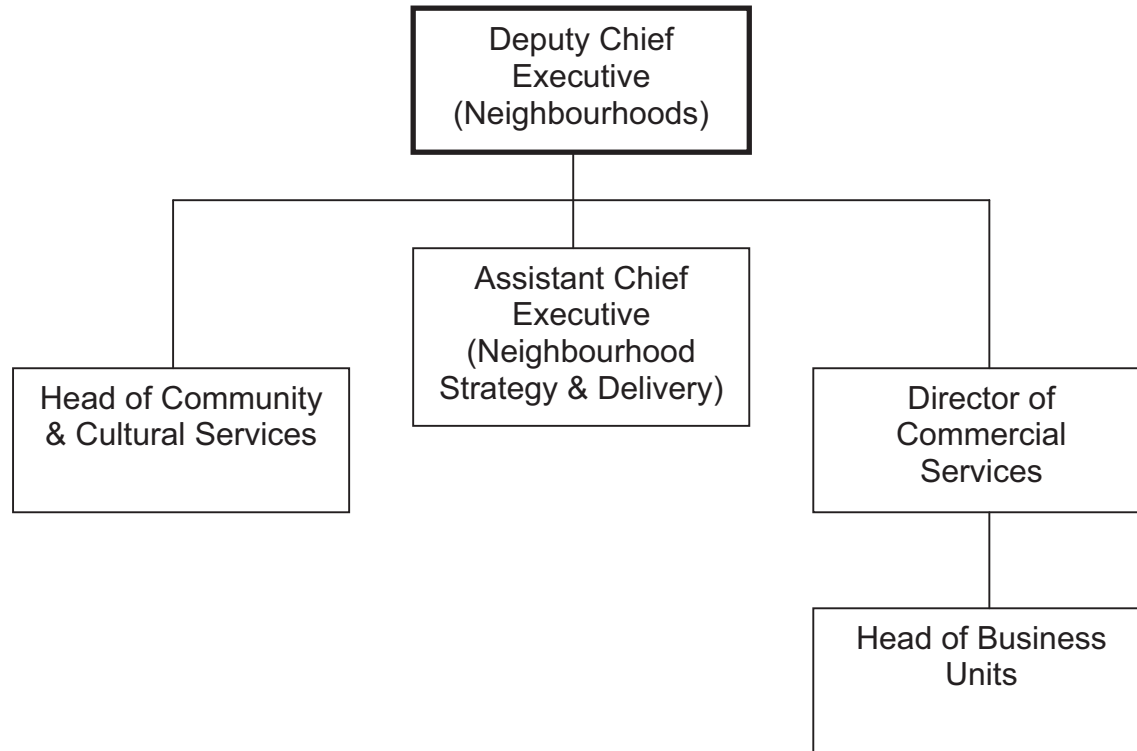
**Directorate for Children's Services and Commissioning**



**Directorate for Families Health and Wellbeing**

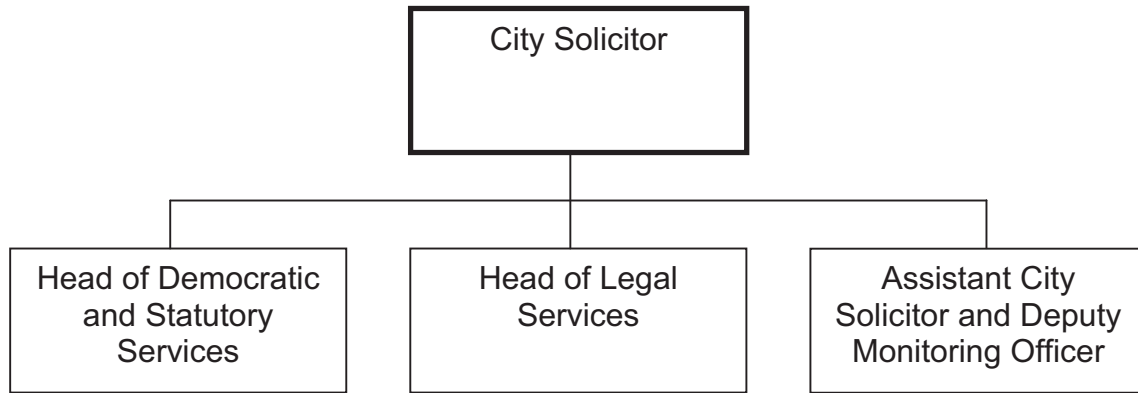


## Neighbourhood Services

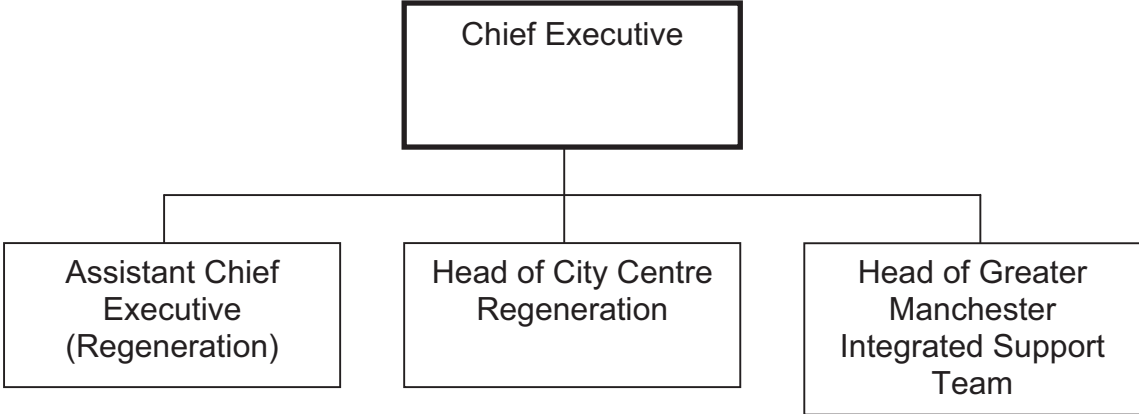




**City Solicitors**



**Chief Executive's Director Reports (Non SMT)**



**Strategic Development**



# **PART 9**

## **ASSOCIATION OF GREATER MANCHESTER AUTHORITIES**

### **CONSTITUTION**



# **THE ASSOCIATION OF GREATER MANCHESTER AUTHORITIES**

## **CONSTITUTION**

**AS AGREED AT A SPECIAL GENERAL MEETING OF THE ASSOCIATION IN  
BOLTON ON 29 AUGUST 2008**

**AS AMENDED WITH EFFECT FROM 1 APRIL 2011**

# Operating agreement and Constitution

## (Joint Arrangements) Committee

This agreement is made on 29th day of August 2008 between:

The Parties in this Agreement, and who have executed this Agreement.

WHEREAS:

- (1) Each of the Parties is a local authority within the meaning of the Local Government Acts 1972 and 2000 for the purposes of their administrative areas.
- (2) The Executive and full Council of each of the Parties has determined by resolution to establish this joint committee to become effective from 1<sup>st</sup> July 2008 for the purposes of exercising agreed functions over their 'combined administrative area'.
- (3) The joint committee will be established as the (Joint Arrangements) Committee and be called the **AGMA Executive Board**, AGMA being the acronym for the Association of Greater Manchester Authorities.
- (4) The Greater Manchester Combined Authority ("the GMCA") is to be established as from 1 April 2011 with a remit covering transport, economic development and regeneration functions.

THIS AGREEMENT witnesses as follows:

1. Key principles
  - 1.1 Notwithstanding the establishment of the GMCA, the Parties remain committed to joint working in relation to the functions covered by this Agreement.
  - 1.2 The Parties have established a joint committee which provides streamlined decision making; excellent co-ordination of services across the combined administrative area; mutual co-operation; partnering arrangements, and added value in the provision of shared services.

- 1.3 The Parties are committed to open and transparent working and proper scrutiny and challenge of the work of the joint committee.
- 1.4 Any new Parties to this agreement after the agreement becomes effective will have all the same rights and responsibilities under this agreement
- 1.5 The Parties are committed to ensure that any decisions, proposals, actions whether agreed or considered will be subject to an obligation upon the Leader of each of the Parties to report it to their own authorities
- 1.6 The collective name of the parties who are signatories to this operating agreement shall be the Association of Greater Manchester Authorities

## 2. Definitions

‘functions’ means those functions of the Parties delegated from time to time to the joint committee to discharge and set out in Schedule 1.

‘the combined administrative area’ means the local government areas of the Parties combined.

‘the Parties’ means the signatories to this agreement for the time being.

‘voting members’ means the appointed elected member(s) of each of the Participating Parties in the decision.

‘Sub-committees’ will only comprise elected members with decision making powers.

‘Commissions’ may comprise of elected and non elected members whose decisions are subject to ratification by the Board.

‘Commission Work Programme’ means an annual Work Programme required to be agreed by the Executive Board under section 8.4 of this constitution. One will be required for each Commission set up under section 8 of this constitution. It will set out the main areas of work, objectives and targets for each Commission for the forthcoming year plus any financial requirements in terms of contributions from the Parties, to be determined under clause 16.2 of this constitution. Commissions may, at their discretion or if required by the Executive Board, seek to formally amend or revise their Work Programme during each year.

‘Lead Authority’ means the local authority appointed by the Parties under this agreement to lead on a specified matter or function.

‘AGMA Executive Board’ (hereinafter called the Board) means the Joint Committee established under this Agreement.

‘Participating Parties’ means those parties which have delegated to the Board the functions set out in Schedule 1

‘GMCA’ means the Greater Manchester Combined Authority.

### 3. Objectives

#### 3.1 The objectives of the Board are to:

- (i) improve outcomes in the economic, social and environmental conditions across the combined administrative area.
- (ii) Streamline decision making where joint arrangements already exist.
- (iii) Develop and agree current and new areas of joint working.
- (iv) Develop joint working arrangements with the GMCA.

### 4. Powers and functions

4.1 This Board is established under section 20 of the Local Government Act 2000 and Regulations 4, 11 and 12 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and section 101(5) of the Local Government Act 1972 enabling the Parties to perform the functions in the manner set out in this agreement.

4.2 The Board has the power to take decisions on behalf of the Parties in relation to those functions set out in Schedule 1. The role of the Board is restricted to those matters described in Schedules 1 and 2. The Board may only exercise those functions delegated to it by the parties and the Board reserves the right to refuse the delegation. The delegation of functions to the Board may be amended or withdrawn by resolution of any of the Parties. Where any such resolution affects any financial liabilities and/or commitments of the Board twelve months notice must be given in writing not later than 31 March in any year to withdraw with effect from 1 April in the following year from any of the functions of the Board.

### 5. Terms of reference

5.1 The terms of reference of the Board will be as set out in Schedule 2.



6. Membership and voting rights

6.1 The Board comprises the Leader of the Council of each of the Parties to this agreement. Each of the Parties will appoint for each Municipal Year two additional members of their Executive one of whom may substitute for the Leader as necessary. The Parties will inform the Secretary to the Board in writing of these annual appointments.

6.2 The term of office of each member of the Board shall be for as long as the member is the Leader of the appointing Council or a member of that Councils Executive in relation to substitute members.

6.3 Non-voting advisers may attend the Board from any or all of the Parties or from other organisations as the Board may agree. These advisers may participate in the debate but may not vote.

6.4 The following can be “Associate Members”:-

The Greater Manchester Fire and Civil Defence Authority.  
The Greater Manchester Police Authority.  
The Greater Manchester Waste Disposal Authority.  
The Greater Manchester Combined Authority.  
The Transport for Greater Manchester Committee.  
The Greater Manchester Local Enterprise Partnership

Together with any local authority or any joint committee of local authorities outside Greater Manchester subject to the agreement of the Board. These Associate Members may participate in the debate but may not vote.

7.... *[DN: Functions of Executive Board in respect of the Business Leadership Council have transferred to GMCA]*

8. Sub-committees/Commissions/advisory groups

8.1 The Board may establish sub-committees, commissions and or advisory groups as it may determine.

8.2 When establishing a sub-committee, commissions and or advisory groups the Board will agree the:

- (i) terms of reference for the sub-committee, commission and or advisory groups.
- (ii) size and membership of the sub-committees, commissions, and or advisory groups including co-optees.

- (iii) the period where appropriate for which the sub-committee or commission will remain constituted.
  - (iv) chair of the sub-committee or commission or will delegate the appointment to the sub-committee or commission.
- 8.2A Where the functions delegated to the Board under this Agreement overlap with the functions of the GMCA, the Parties and the GMCA may agree to establish a joint commission.
- 8.3 Within the arrangements to be agreed at 8.2 above the Board will ensure that there is political and geographical proportionality across sub committees, commissions and advisory groups and that, as far as is possible, this will also apply within individual sub-committees, commission and advisory groups.
- 8.4 Any Commission created under clause 8 of this constitution shall be required to produce, on at least an annual basis, a Commission Work Programme for approval by the Executive Board. This Work Programme will need to include any specific budget requirements. The Executive Board will indicate, when confirming each Commission Work Programme, for which elements they are prepared to waive the process described in clauses 8.6 and 8.7 below. If agreement on issues where the Executive Board are prepared to waive the process set out in 8.6 and 8.7 cannot be reached without a vote a 7/3 majority of the Participating Parties will be needed as set out in clause 12.3 of this agreement.
- 8.5 The Executive Board shall appoint a Lead Officer in relation to each Commission with delegated authority to take all necessary actions and decisions, in consultation with the relevant Commission, to implement the Work Programme of that Commission which has been approved by the Executive Board.
- 8.6 Following each meeting of any Commission established under clause 8.1 above it will be a requirement of the Chair of the Commission, within two working days of the Commission meeting to provide the AGMA Secretary with a record of proceedings within two working days of each meeting. The AGMA Secretary will then e-mail a record of proceedings of the meeting to all members of the Executive Board within two working days of receipt.
- 8.7 Following the issuing of any record of proceedings from a Commission meeting, any Party may, within 5 working days, refer any item considered at that meeting to the Board for reconsideration, except where it has previously been agreed that this process can be waived as set out in clause 8.4 above. The Party must set out the reasons for referral in a Notice signed by the Chief Executive of Executive Board member or named substitute appointed under clause 6.1. The notice must be served in accordance with clause 24 of this constitution.

- 8.8 Any proposed decision on any such issue referred to the Executive Board under clause 8.7 above must be considered at the next meeting of the Executive Board and shall not take effect until after the Executive Board has considered the matter.
- 8.9 In relation to any Commission set up under clause 8.1 above, notice of meetings and access to agendas and reports will be in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 and 2002 or sections 100A-K and Schedule 12A of the Local Government Act 1972 as appropriate.
9. Delegation to sub-committees and officers
- 9.1 The Board will establish a scheme of delegation and will review the scheme annually.
10. Meetings and procedure
- 10.1 A Chair and up to 3 Vice Chairs (“the four offices”) will be appointed by the Board from amongst its membership.
- 10.2 The Chair of the Board will be appointed from the largest political group represented on the Board. Where two or more political groups have an equal number of seats on the board, the group which holds the larger number of Council seats within the combined administrative area will be regarded as being the largest political group.
- 10.3 Subject to (b) below 3 Vice Chairs of the Board will be appointed by the Board from its number under the following principles:
- (a) If more than one political group is represented on the Board then all the four offices will not be occupied by members from the same group
  - (b) If less than three political groups are represented on the Board, then the Board may choose not to make an appointment to one of the three Vice Chair positions
  - (c) If at least three political groups are represented on the Board, the three largest political groups will be entitled to at least one of the four offices
  - (d) For the purposes of (c) above, where two or more political groups have an equal number of seats on the board, the group which holds the larger number of Council seats within the combined administrative area will be regarded as being the largest political group
- 10.4 If the Chair is present at a meeting of the Board he/she will preside. If the Chair is not present, if there is a Vice Chair from the same political group as the Chair he/she will preside; if neither the Chair

nor that Vice Chair is present one of the other Vice Chairs will preside. In the absence of the Chair and all the Vice Chairs, the meeting will elect a Chair for that meeting from those present.

10.5 The Chair and Vice Chairs (sitting as a sub-committee) may have decision making powers delegated to them. Such powers will require to be delegated by the full Board.

10.6 The quorum of the Board will be two thirds of participating Parties for any particular function listed in Schedule 1 that is under discussion

10.7 The Board will conduct its business in accordance with this operating agreement and Schedule 3 to this agreement.

#### 11. Agenda setting and access to meetings and information

11.1 The agenda for the Board shall be agreed by the Chair of the Board.

11.2 Notice of meetings and access to agendas and reports will be in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Amendment Regulations 2000 and 2002 or sections 100A-K and Schedule 12A of the Local Government Act 1972 as appropriate and the Board Rules of Procedure as set out in schedule 3.

#### 12. Decision making

12.1 The principle of decision making by the Board shall be that, wherever possible decisions of the Board will be made by agreement, without the need for a vote. Where this is not possible a vote may be taken where the Chair considers it to be necessary or where any Voting Member requests that a vote be taken. The vote will be by way of a show of hands and the vote of each member recorded in the Minutes.

12.2 In the event of a vote, only the appointed member(s) of each of the Parties present at the meeting shall be entitled to vote (including the Chair). In the event of a tied vote the Chair has no second or casting vote. Any motion or proposal which results in a tied vote will be deemed not to have been agreed.

12.3 The following areas have been identified as matters of strategic importance, where - as a matter of last resort if agreement cannot be reached without a vote - a 2/3 majority of the Participating Parties will be needed:-

1. adoption of sub regional strategic policies and plans.
3. responses to Government consultations.

4. decisions with financial consequences/costs to the member authorities (e.g. AGMA Units contributions, budgets - if any - delegated to individual Commissions, etc).
5. decisions/recommendations on levies/precepts of joint authorities.
6. endorsement of strategic plans produced by the new Commissions.
7. Associate Membership under Clause 6.4.
8. Proposed amendments to this Agreement

12.4 For the following areas a simple majority need only apply

1. appointments to external bodies.
2. appointments to the new Commissions when established.
3. election to any of the four offices set out in section 10.1 above.

12.5 For issues not covered in Clauses 12.3 or 12.4 where agreement cannot be reached without a vote the presumption will be that a two thirds majority of the Parties will be needed.

12.6 Where the effect of a particular proposition, if adopted by the Board, would give rise to contractual or financial implications for any of the Parties, then a vote must be taken and the vote(s) of the appointed member(s) of the effected Party (ies) on of the proposition shall be recorded.

### 13. Forward Plan

13.1 The Board will produce a forward plan in accordance with the requirements of section 22 of the Local Government Act 2000.

### 14. Scrutiny

14.1 Scrutiny arrangements will be in accordance with the Operating Agreement between the Parties and the GMCA dated 1<sup>st</sup> April 2011 which is set out in Schedule 4

### 15. Lead authorities and allocation of roles

15.1 In order to achieve the objectives of the Board, the Parties may appoint one or more Lead Authority/ies for any of the functions under this Agreement. All governance arrangements will be in

accordance with the CIPFA/SOLACE guidance for the time being and using the Lead Authorities standing orders and financial regulations.

- 15.2 Staff from the Lead Authority or any other Authority are commissioned to provide services, advice and support to the Board and will continue to be employees of the relevant Lead Authority or said other Authority.
- 15.3 Responsibility for the following support functions to the Board will be allocated to one or more of the Parties as Lead Authority as agreed by the Board from time to time:
  - (i) the provision of legal advice and services.
  - (ii) the provision of financial advice and services.
  - (iii) secretariat support and services.
  - (iv) communications support and services.
- 15.4 In order to provide accountability for these support functions, the Board shall, at every Annual Meeting, appoint: -
  - (a) A Secretary
  - (b) A Treasurer
  - (c) Such other officer(s) as may be deemed appropriate.

Unless otherwise agreed by the Board, the Secretary and Treasurer appointments shall be made from among officers of the authority of the Chair appointed at the Annual General Meeting. These appointments may be terminated and/or new appointments made at any Meeting of the Board.

- 15.5 The cost of the services and advice set out in this section and additional services agreed will be apportioned and paid for in accordance with paragraph 16
16. Budgetary arrangements/ delegated funds
  - 16.1 The Board shall prepare a budget to cover all its expenses which will be submitted to and agreed by the Board before submission of the levy to each of the Parties by the last day of February in each year.
  - 16.2 Each party to this agreement shall agree to pay a contribution to the budget as unanimously agreed by the Parties or, in default of agreement, proportionate to its resident population at the relevant date as estimated by the Registrar General.

16.3 For the purposes of Clause 16.2 the relevant date is 30<sup>th</sup> June in the financial year which commenced two years previously.

17. Amendments to this operating agreement

17.1 This Agreement may be amended following a resolution of two thirds of the Board and also approved by two thirds of the Parties.

17.2 The operation of the agreement will also be subject to annual review.

18. New membership and cessation of membership

18.1 New Parties may join the Board provided that the Executive and full council of the joining Party (ies) and of all the Parties to the agreement for the time being so resolve.

18.2 Any of the Parties may cease to be a party to this Agreement following notice of cessation subsequent to a decision by the relevant Party/ies. A minimum of twelve months notice is required for any Party to leave the Board and in any event, any notice of cessation can only be effective at the end of a financial year.

18.3 Termination of this agreement must be by agreement of all but one of the Parties who are signatories to the agreement when any such termination is proposed.

19. Dispute resolution

19.1 Any dispute between the Parties arising out of this Agreement which cannot be settled by the Head of Paid service of the Parties shall be referred to a single arbitrator to be agreed between the Parties, or, where no agreement can be reached, and having regard to the nature of the dispute, by an arbitrator nominated by the Chair of the Local Government Association and will be carried out in accordance with the provisions of the Arbitration Act 1996 as amended or modified and in force for the time being.

20. Mutual indemnification

20.1 Each of the Parties is responsible for its own personnel and property and any consequential losses arising out of this agreement, and for the personnel and property and consequential losses of each of the other Parties of any decision taken by a party to this agreement under clauses 4.2 and 17.2.

20.2 Each of the Parties shall ensure that they have a sufficient policy of insurance for any work that they undertake on behalf of the Board and for a period of six years after termination of this Agreement.

21. Intellectual Property

21.1 The Board will not acquire any right, title or interest in or to the intellectual property rights of the Parties unless agreement to do so is given by the party or parties with the right.

21.2 Any issues, challenges or claims in relation to any intellectual property rights shall be advised to each of the Parties immediately, and any intellectual property right claim shall be managed by the Parties as agreed.

22. Data Protection, Freedom of Information, information sharing & confidentiality

22.1 Subject to the specific requirements of this clause, each of the Parties shall comply with its legal requirements under data protection legislation, freedom of information and associated legislation, and the law relating to confidentiality.

22.2 An authority will be appointed as Lead Authority for the purposes of ensuring compliance with any legal requirements relating to these issues should they arise directly in relation to the Board (as compared to information held by the Parties to this Agreement).

22.3 The Board will abide by any Information Sharing Protocol in relation to information shared between the Parties, any third parties and the Board

23. Severability

23.1 If any term, condition or provision contained in this agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall not affect the validity, legality or enforceability of the remaining parts of this agreement.

24. Notice

24.1 Any notice, demand or other communication required to be served under this Agreement shall be sufficiently served if delivered personally to or sent by pre-paid first class recorded delivery post or email or facsimile transmission to the address of the AGMA Policy & Research Unit at the Wigan Investment Centre, Waterside Drive, off Swan Meadow Road, Wigan WN3 5BA. If so sent any such notice, demand or other communication shall, subject to proof to the contrary, be deemed to have been received by the addressee the time of personal delivery or on the second working day after the date of posting or unsuccessful transmission as the case may be.



25. Counterparts

25.1 This agreement may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument.

26. Exercise of statutory authority

26.1 Without prejudice to this agreement, nothing in this agreement shall be construed as a fetter or restriction on the exercise by any of the parties of their statutory functions.

27 Appointment to External Bodies

27.1 Not less than two months before the Annual Meeting of the Boards it shall be the responsibility of the Secretary to advise Parties of those positions on other bodies to which the Board need to make nominations for the forthcoming year.

27.2 It shall be the responsibility of Chief Executives of each of the Parties to advise the Secretary, in writing and not less than 15 days before the Annual Meeting of the Board, of any nominations which that Party wishes to make to those positions that have been identified by the Secretary under Clause 27.1 of this agreement.

27.3 Nothing in Clause 27.2 should be taken as assuming that any positions held by any person at the time that the Secretary issues information under Clause 27.1 of this constitution are automatically re-nominated for consideration at the Annual General Meeting. For any such position it will be the responsibility of Chief Executives of any Party to confirm to the Secretary, in writing and not less than 15 days before the Annual Meeting of the Board, where any existing representatives are to be re-nominated.

27.4 It shall be the responsibility of the Secretary to advise Parties of all nominations received for representation on outside bodies. This advice must be issued in writing to Parties not less than 14 days before the Annual Meeting of the Board.

Signed by Bolton Metropolitan Borough Council Cllr C. Morris Authorised Signatory S Harriss Dated 29.8.08	Signed by Salford City Council D.A Lancaster Authorised Signatory B Spicer Dated 29.8.08
Signed by Bury Metropolitan Borough Council B Bibby Authorised Signatory M Kelly Dated 29.8.08	Signed by Rochdale Metropolitan Borough Council I Davidson Authorised Signatory R Ellis Dated 29.8.08
Signed by Stockport Metropolitan Borough Council D Goddard Authorised Signatory G Lucas Dated 29.8.08	Oldham Metropolitan Borough Council H Sykes Authorised Signatory A Kilburn Dated 29/8/08
Trafford Borough Council S Williams Authorised Signatory J. Williams Dated 29.8.08	Tameside Metropolitan Borough Council J. Callender Authorised Signatory S. Orrell Dated 29.08.08
Signed by Manchester City Council R Leese Authorised Signatory S Orrell Dated 29.8.08	Signed by Wigan Borough Council J. Leese Authorised Signatory J. Leese Dated 29/08/08

Signatures:-

Bolton MBC: Cllr C. Morris (Leader) & S Harriss (Chief Executive)  
 Bury MBC: Cllr B Bibby (Leader) & M Kelly (Deputy Chief Executive)  
 Manchester CC: Cllr R Leese (Leader) & S Orrell (City Solicitor)  
 Oldham MBC: Cllr H Sykes (Leader) & A Kilburn (Leader)  
 Rochdale MBC: Cllr I Davidson (Deputy Leader) & R Ellis (Chief Executive)  
 Salford CC: Cllr D Lancaster (Deputy Leader) & B Spicer (Chief Executive)  
 Stockport MBC: Cllr D Goddard (Leader) & G Lucas (Deputy Chief Executive)

## SCHEDULE ONE

### A. General functions

1. Together with the GMCA to promote and improve the economic, social and environmental well-being of Greater Manchester, and to liaise with and assist the GMCA in the production of an integrated strategy for Greater Manchester to set out the key economic, social and environmental objectives for the combined administrative area.
2. Where the Parties have decided it is appropriate to operate at the level of the combined administrative area,
  - (a) development and adoption of sub regional strategic policies and plans
  - (b) responses to regional, national and international consultations
3. To hold to account bodies which impact upon the social, economic and environmental well being of Greater Manchester; including any Joint Authorities operating within the combined administrative area.
4. Undertake and publish research to support any function exercised by this agreement

### B. Financial Functions

5. Agree any financial matters related to the exercise of any of the functions set out in this schedule
6. Monitoring of the budgets and expenditure of all authorities or bodies having power to issue a precept or levy on Member Councils and effecting appropriate consultation with them and taking appropriate action.
7. Receive on an annual basis a report on the management and performance of the Greater Manchester Superannuation Scheme and the Pension Fund.

### C. Specific functions

- 8.
- 9.
- 10.
- 11.
- 12.

### Planning & Housing

13. Together with the GMCA, where appropriate -

- 13.1 Developing and coordinating the operation of a Greater Manchester Spatial Strategy as a framework for underpinning and linking partners Local Development Frameworks and Core Spatial Strategies
- 13.2 To coordinate and manage joint Local Development Framework activity across the combined administrative area on behalf of the 10 local planning authorities, in circumstances where this is agreed as appropriate (initially in terms of Waste and Minerals Planning)
- 13.3 To develop and coordinate the operation of a Greater Manchester Housing strategy
- 13.4 To determine the future allocation of any pooled public sector housing resources across the combined administrative area and provide a sub-regional context for managing the scale, distribution and mix of new housing development.

## Environment

### 14. Together with the GMCA, where appropriate -

- 14.1 Preparation and co-ordination of delivery of strategic plans and projects, design of infrastructure for the combined administrative area for the purpose of protecting and improving environmental quality, and liaison and advice with the Board and other work areas to ensure alignment of Plans and projects with environmental objectives
- 14.2 Establish, and where appropriate, provide a governance pathway for agencies, groups and organisations whose remit is to drive forward environmental priorities
- 14.3 Establishment and Management of effective strategy, plans and infrastructure to co-ordinate and deliver an effective response to Climate Change, including the establishment of a Climate Change Agency for the combined administrative area
- 14.4 Together with the Greater Manchester Waste Disposal Authority (WDA), and Wigan Metropolitan Borough Council in its role as a WDA, to develop a comprehensive city regional sustainable waste management approach that encompasses commercial, industrial and construction and demolition waste streams, delivers synergies and economies of scale, and promotes sustainable production and consumption.

## Health

21. To develop a shared health vision for Greater Manchester
22. To provide leadership and challenge for the development and delivery of high level health indicators within the context of a shared vision
23. To coordinate the necessary response within Greater Manchester to the Audit Commission Review of health Inequalities within Greater Manchester and any such subsequent reviews
24. To oversee, when appropriate, any interface between health and social care functions where this is appropriate at a Greater Manchester level

### Public Protection

- 25. To, oversee where appropriate, measures to protect the community from terrorism, disasters and organised crime
- 25A To collaborate in measures to ensure reduction in crime and disorder and to improve community safety
- 25B To co-ordinate measures to improve service delivery in the field of public protection to ensure services that best meet the needs of the community and raise public confidence

### Improvement and Efficiency

- 26. To establish a Manchester City Region Improvement and Efficiency Strategy
- 27. To provide effective overarching governance arrangements to deliver the Strategy, Identify innovative ways of working to deliver the Strategy, maximise skills, knowledge and expertise within the City Region to deliver the strategy and seek and secure available funding

### D. Other Miscellaneous Functions

- 28. To act as: -
  - i.) the joint committee for trading standards and related functions for the purposes of paragraph 15 of Schedule 8 to that Act;
  - ii.) a joint committee in respect of the grants and schemes pursuant to Section 48 of that Act;
  - iii.) a joint committee in respect of schemes and relevant activities under Section 88 of that Act;
  - iv.) a joint committee in respect of the Greater Manchester County Record Office;
  - v.) a joint committee for such other purpose or purposes as all the Member Councils concerned may at any time agree and.

## SCHEDULE TWO

### TERMS OF REFERENCE

The terms of reference for the Board are to :-

- (a) conduct its business and direct its affairs in accordance with any policies and guidelines which may from time to time be jointly agreed by the parties to this agreement and as set out in this agreement,
- (b) receive and, if approved, adopt recommendations from the Business Leadership Council, or any Sub Committee or Commission set up by virtue of this agreement with or without amendment, addition or deletion.
- (c) work together in order to achieve the promotion or improvement of the economic, physical and social well being of the Manchester City Region, its people and businesses, through measures and joint actions which member authorities may determine from time to time.
- (d) work with other appropriate agencies and bodies beyond Greater Manchester in order to achieve the above objective,
- (e) operate within the regional context of N W England and whatever regional structures and arrangements are in place
- (f) provide a forum for the discussion of matters of common concern and interest.
- (g) provide a means of co-ordination and decision-making in respect of joint action and working including the monitoring of joint professional teams and units.
- (h) exercise statutory functions which the parties to this agreement are required or empowered to refer or delegate to joint committees.
- (i) to consult and liaise with other bodies or organisations of a public or quasi-public nature exercising functions or carrying out activities which are of importance to Greater Manchester.
- (j) to provide a forum for consulting with other bodies on issues of common interest
- (k) to keep under review expenditure incurred and services provided by Joint Authorities and to keep under review and control expenditure incurred and services provided by the parties to this agreement s and other bodies, teams or units under arrangements or statutory provisions whereby costs are recoverable from or chargeable to some or all of the parties to this agreement, whether by levy or otherwise.
- (l) to watch over, protect and promote the interest, rights, powers, functions and duties of the parties to this agreement and local government generally in Greater Manchester.
- (m)to provide a means for the formulation and expression of joint views of the parties to this agreement to the Local Government Association, central government and other bodies and organisations in respect of legislation, proposed legislation and other matters of concern, interest or relevance to Greater Manchester.

- (n) together with the GMCA, to provide a means of contact and liaison with institutions of the European Communities and to advance the interests of Greater Manchester in Europe and elsewhere in the world
- (o) approve of an annual statement of accounts of the Board made up to the 31st March in each year for submission to its Annual General Meeting.

## SCHEDULE 3

### Rules of Procedure

1. Annual General Meeting.

There will be an Annual General Meeting of the Executive Board in the June of each year.

The AGM will annually elect –

The Chair  
Vice Chairs  
The Secretary  
The Treasurer

See Paragraphs 10 and 15.4 of the Operating Agreement.

2. Duration of Appointments.

See Paragraph 6 of the Operating Agreement.

3. Servicing.

See paragraph 15.3 of the Operating agreement.

4. Meeting Agendas.

- (i.) The Chair of the Board will decide upon the agenda for the meetings of the Board. He/she may put on the agenda of any meeting any matter which he/she wishes
- (ii.) Any member of the Board may require the Secretary to make sure that an item is placed on the agenda of the next available meeting of the Board for consideration.
- (iii.) The Secretary will make sure that an item is placed on the agenda of the next available meeting of the Board where any Commission or the Business Leadership Council have resolved that an item be considered by the Board.
- (iv.) Any Party to this agreement may ask the Chair of the Board to put an item on the agenda of Board meeting for consideration. If the item is in line with the Terms of Reference (Schedule 2) then this request must be agreed by the Chair and the item considered at the next available meeting of the Board. The notice of the meeting will give the name of the Party which asked for the item to be considered.



- (v.) The Secretary or Honorary Treasurer may include an item for consideration on the agenda of a Board meeting
- (vi.) Any item proposed to be included on the agenda for any board meeting in accordance with 4(i)-(v) above which is not submitted before 5 clear days of the meeting shall not be included on the agenda for that meeting unless it is agreed by the Chair. In this case the amended agenda for the meeting will state the reason for the late acceptance of any such item.

See also Paragraphs 8, 9 and 10 of the Operating Agreement.

5. Substitutes.

See Paragraph 6 of the Operating Agreement.

6. Sub-Committees.

See Paragraphs 8 & 9 of the Operating Agreement.

7. Voting.

See Paragraph 12 of the Operating Agreement.

8. Quorum.

See Paragraph 10 of the operating Agreement.

9. Rules of Debate.

- (i) A motion or amendment shall not be discussed unless it has been proposed and seconded.
- (ii) A Member shall address the Chair and direct any speech to the question under discussion. If two or more Members indicate they wish to speak the Chair shall call on one to speak first.
- (iii) An amendment shall be
  - (a) to leave out words
  - (b) to leave out words and insert or add others
  - (c) to insert or add wordsbut any such amendment must not have the effect of introducing a new proposal into or of negating the original motion.
- (iv) A Member shall not speak for longer than 5 minutes on any matter without the consent of the Board.

- (v) No Member shall address the Board more than once on any issue unless this be by invitation of the Chair, but the mover of an original motion may reply, in which reply no new matter shall be introduced, but the reply shall be confined strictly to answering the previous observations.
- (vi) A Member may claim to speak on a point of order or in personal explanation and shall be entitled to be heard forthwith. A point of order shall relate only to an alleged breach of a specified statutory provision or this constitution or any of its Schedules and the way in which the Member raising it considers that it has been broken. A personal explanation shall be confined to some material part of a former speech by him in the current debate which may appear to have been misunderstood. The ruling of the Chair on a point of order or on the admissibility of a personal explanation shall not be open to discussion
- (vii) If an amendment is rejected other amendments may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any other amendment may be moved.
- (viii) A further amendment shall not be moved until the Board has disposed of every amendment previously moved, provided that the Chair shall have discretion to allow debate to take place on two or more amendments.
- (ix) A Member at the conclusion of a speech of another representative may move without comment
  - (a) that the question be now put
  - (b) that the debate be now adjourned
  - (c) that the Board proceed to the next business
  - (d) that the Board do now adjournIf such a motion is seconded, the Chair, shall, subject to the mover's right to reply, put the motion to the vote, and if it is carried -
  - in case (a) - the motion then before the meeting shall, subject to the right of reply, be put to the vote; or
  - in case (b) - the debate on the motion then before the Board shall stand adjourned until the next ordinary meeting of the Board; or
  - in case (c) - the motion then before the Board shall be regarded as lost and the Board shall proceed to the next item on the Agenda, if any; or
  - in case (d) - the meeting shall stand adjourned.
- (ix) If the Chair is of the opinion that the matter before the Board has been sufficiently discussed he may put the motion that the question now be put

- (x) The Chair shall decide all questions of order and any ruling by the Chairman upon such questions and the interpretations of these Standing Orders, and upon matters arising in debate shall be final and shall not be open to discussion.

10. Admission of Public.

All meetings of the Board shall be open to the Public (including the Press) except to the extent that they are excluded whether during the whole or part of the proceedings either:-

- (i) In accordance with Section 100A(2) of the Local Government Act 1972; or
- (ii) By resolution passed to exclude the public on the grounds that it is likely, in view of the nature of the proceedings, that if members of the public were present there would be disclosure to them of exempt information as defined in Section 101 of the Local Government Act 1972. Any such Resolution shall identify the proceedings or the part of the proceedings to which it applies and state the description, in terms of Schedule 12A to the Local Government Act 1972 of the exempt information giving rise to the exclusion of the public.

11. Disorderly Conduct.

- (i) If the Chair is of the opinion that a Member has misconducted, or is misconducting him or herself by persistently disregarding the ruling of the Chair or by behaving irregularly, improperly or offensively or by wilfully obstructing the business of the Board the Chair may notify the meeting of that opinion and may take any of the following actions either separately or in sequence:
  - (a) the Chair may direct the Member to refrain from speaking during all or part of the remainder of the meeting
  - (b) the Chair may direct the Member to withdraw from all or part of the remainder of the meeting
  - (c) the Chair may order the Member to be removed from the Meeting
  - (d) the Chair may adjourn the meeting for such period as shall seem expedient to him
- (ii) In the event of general disturbance which in the opinion of the Chair renders the due and orderly dispatch of business impossible, the Chair, in addition to any other power invested in the Chair, may without question, adjourn the meeting of the

Board for such periods as in the Chair's discretion shall be considered expedient.

12. Urgent Business.

Any member of the Board may, with the agreement of the Chair, raise an item of urgent business during the course of any meeting of the Board.

See also section 4 (vi) of this schedule

14. Declaration of Interests.

(i.) Any elected member of the Board or any Commission or Sub Committee established under this operating agreement must disclose any personal interests in any business conducted by any meeting held under this operating agreement in accordance with the Member's Code of Conduct.

(ii.) Any other person who is a member of any Commission or Sub Committee established under this operating agreement must disclose any personal interests in any business conducted by any meeting held under this operating agreement. Such a declaration must occur at the start of the relevant item of business or as soon the interest becomes apparent. Upon declaration of any such personal interest it shall be for the other members of the meeting to determine what action should be taken as a result of the disclosure of any personal interest.

15. Access to Documents.

(i) Notices Of Meeting

At least five clear days notice of any meeting of the Board will be given by posting details of the meeting at the address specified in Paragraph 24.1 of this operating agreement

(ii) Access To Agenda And Reports Before The Meeting

Copies of the agenda and reports of the Board, if available, will be available for inspection at the the address specified in Paragraph 24.1 of this operating agreement at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda and any such item will be open to inspection at the time the item is added to the agenda.

### (iii) Supply of Copies

Copies of:

- any agenda and reports which are open to public inspection;
- any further statements or particulars necessary to indicate the nature of the items in the agenda;

shall be available from the address specified in Paragraph 24.1 of this operating agreement to any person on payment of a charge for postage and any other costs.

### (iv) Access To Minutes Etc After The Meeting

Copies of the following will be made available for six years after a meeting:

- the minutes of the meeting, records of decisions taken, together with reasons, for all meetings of the Executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- the agenda for the meeting; and
- reports relating to items when the meeting was open to the public.

### (v). Background Papers

The author of the report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- disclose any facts or matters on which the report or an important part of the report is based; and
- which have been relied on to a material extent in preparing the report

### (vi) Public inspection of background papers

Background papers listed in any report shall be made available by the local authority which employs the author of any such report. One copy of each will be made available for public inspection for four years after the date of the meeting.

## 16. Suspension of Rules of Procedure

Any of the preceding Rules of Procedure Orders may be suspended at any meeting so far as regards any business on the Agenda for such a meeting, providing that the majority of the Members present and voting so decide.

[DN: Schedule 4 has been replaced by the new scrutiny arrangements contained in Schedule 3 of the Operating Agreement between the Parties and GMCA which came into effect on 1<sup>st</sup> April 2011]

## SCHEDULE 4

**[Inserted by Schedule 3 of the Operating Agreement dated 1 April 2011]**

### **PROTOCOL FOR SCRUTINY ARRANGEMENTS FOR AGMA EXECUTIVE BOARD, GMCA, TfGMC AND TfGM**

This protocol provides a framework for carrying out joint scrutiny work of:

- A. The AGMA Executive Board (“the Executive Board”) within the arrangements of the AGMA Constitution and Operating Agreement;
- B. The Greater Manchester Combined Authority (GMCA);
- C. The Transport for Greater Manchester Committee (TfGMC); and
- D. Transport for Greater Manchester (TfGM).

This protocol will be reviewed annually to ensure it remains relevant.

#### **2. Objectives of scrutiny of the Executive Board, GMCA, TfGMC and TfGM**

2.1 These arrangements have been established to act as a focus for the scrutiny and challenge of the Executive Board and Commissions, the GMCA, the TfGMC and TfGM, and for investigating matters of strategic importance to residents within the combined administrative area covered by the Constituent Councils;

2.2 The role of these arrangements will include:-

2.2.1 monitoring:-

- (i) the decisions of the Executive Board;
- (ii) the decisions of the GMCA; and
- (iii) major and strategic decisions of the TfGMC which are taken by the TfGMC in accordance with the delegations set out in Schedule 1, Parts B, C and D of this Operating Agreement;

and to make recommendations for improvement and/or change;

2.2.2 investigating matters of strategic importance to residents of the Constituent Councils and reporting with recommendations to the Executive Board, the GMCA, or the TfGMC as appropriate;

- 2.2.3 reviewing and commenting upon the following periodic reports to the Executive Board in advance of their submission for approval to the Executive Board:-
- (i) any budgets for sub regional functions which are the responsibility of the Executive Board; and
  - (ii) Annual refreshes of AGMA Commission Work Programmes as detailed in Clause 8.4 of the AGMA Operating Agreement and Constitution;
- 2.2.4 reviewing the performance of the Executive Board and the GMCA against objectives within the Greater Manchester Strategy;
- 2.2.5 facilitating the exchange of information about the work of AGMA, the GMCA and the TfGMC and to share information and outcomes from reviews;
- 2.2.6 The role of these arrangements in relation to TfGM will include:
- (i) monitoring TfGM's delivery of transport services against the Local Transport Plan and to make recommendations for improvement and/or changes;
  - (ii) obtaining explanations from TfGM regarding its delivery of transport services.
- 2.2.7 Scrutiny in respect of the AGMA Health function will be undertaken in accordance with separate statutory arrangements.
- 2.2.8 The terms of reference for these scrutiny arrangements and the work programme in relation to scrutiny of the Executive Board, the GMCA, the TFGMC and TfGM will be subject to an annual review.

### **3. Operation of Scrutiny Arrangements for the Executive Board, GMCA, TfGMC and TfGM**

- 3.1 A pool of elected members (the "Scrutiny Pool") will be established which will comprise of 3 councillors from each of the Constituent Councils. Appointees to the Scrutiny Pool must not be members of the Executive Board, the GMCA (including substitute members) or the TfGMC. Both sexes must be represented within the 3 elected members from each of the Constituent Councils.
- 3.2 Appointments to the Scrutiny Pool by the Constituent Councils will be made in accordance with the principles of political balance set out in Section 15(5) of the LGHA 1989.
- 3.3 Any elected member appointed to the Scrutiny Pool under these scrutiny arrangements who is also appointed as a substitute for an Executive Board member under section 6.1 of the AGMA Operating Agreement, or to any AGMA Commission, or AGMA Sub Committee cannot participate in the operation of the scrutiny arrangements on any issues which were taken at any meeting of the Executive Board, or any



AGMA Commission or AGMA Sub Committee at which they were present.

- 3.4 Any elected member appointed to the Scrutiny Pool under these scrutiny arrangements who is also appointed to any Committee or Sub Committee of the GMCA cannot participate in the operation of the scrutiny arrangements on any issues which were taken at any meeting of the GMCA or any Committee or Sub Committee of the GMCA at which they were present.
- 3.5 The term of office for members of the Scrutiny Pool will be one year from the date of the annual council meeting of the Constituent Council that appoints them to the Scrutiny Pool unless:-
- 3.5.1 they cease to be an elected member of the Constituent Council that appointed them;
  - 3.5.2 they wish to no longer participate in these arrangements; or
  - 3.5.3 the Secretary is advised by any of the Constituent Councils that it wishes to change one or more of its appointees to the Scrutiny Pool in accordance with paragraphs 3.1-3.3 of this Clause 3.
- 3.6 Non-voting members may be co-opted to participate in these arrangements from all or any of the associated authorities or from other organisations as the Scrutiny Pool members may decide.

#### **4. Meetings of Scrutiny Pool Members**

- 4.1 The members appointed to the Scrutiny Pool under Clause 3 above will hold at least one joint annual meeting and may convene additional joint meetings in accordance with these arrangements.
- 4.2 At the annual joint meeting the Scrutiny Pool members will:
- (i) elect a Chair and Vice Chair. The Chair and Vice Chair must come from different political groups.
  - (ii) determine the areas of review and scrutiny that they wish to pursue during the ensuing 12 months.
  - (iii) agree to establish Scrutiny Panels from amongst their number in order to carry out agreed areas of review and scrutiny.
- 4.3 The quorum for this annual meeting and any other joint meetings held under this Clause 4 will be 10, and must include representatives of at least 7 of the Constituent Councils.
- 4.4 The principle of decision making at any such joint meeting shall be that, wherever possible decisions will be made by agreement, without the need for a vote. If a vote is necessary it will be a simple majority of those present and the Chair will not have a casting vote.

- 4.5 The venue for each annual meeting and any other joint meetings held under this Clause 4 will be decided by the Chair and notified to Constituent Councils for inclusion on their Council web sites.
- 4.6 Notice of the annual meeting and any other joint meetings held under this Clause 4 will be sent to each Scrutiny Panel member in accordance with the requirements of the Local Government Act 1972.
- 4.7 The Chair will approve the agenda for each annual meeting and any other joint meetings held under this Clause 4; however, any member of the Scrutiny Panel will be entitled to require an item to be placed on the agenda for the meeting.
- 4.8 Subject to paragraphs 4.1-4.7 of this Clause 4, meetings will proceed in accordance with the Rules of Procedure set out at Schedule 3 to the AGMA Operating Agreement.

## **5. Call in of decisions**

### **5.1 Call in of decisions of Executive Board, GMCA and TfGMC**

- 5.1.1 Members of the Scrutiny Pool appointed under this Protocol will have the power to call in:-
- (i) any decision of the Executive Board;
  - (ii) any decision of the GMCA;
  - (iii) any major or strategic decision of the TfGMC which is taken by the TfGMC in accordance with the delegations set out in Schedule 1, Parts B, C and D of this Operating Agreement.

### **5.2 Publication of Notice of Decisions**

#### **5.2.1 When:-**

- (i) a decision is made by the Executive Board or the GMCA, or
- (ii) a major or strategic decision is made by the TfGMC in accordance with the delegations set out in Schedule 1, Parts B, C and D of this Operating Agreement,

the decision shall be published, including where possible by electronic means, and shall be available from the normally within 2 days of being made. It shall be the responsibility of the Secretary to send electronic copies of the records of all such decisions to all members of the Scrutiny Pool within the same timescale.

- 5.2.2 The notices referred to at paragraph 5.2.1 above will bear the date on which they are published and will specify that the decision will come into force, and may then be implemented, as from 4 .00 pm on the fifth

day after the day on which the decision was published, unless 5 members of the Scrutiny Pool object to it and call it in.

### **5.3 Call-in of decisions of Executive Board, GMCA, and TfGMC**

5.3.1 During the “Call-in” period specified at paragraph 5.2.2 above the Secretary shall:-

- (i) call-in a decision of the Executive Board for scrutiny by a joint meeting of Scrutiny Pool members if so requested by any five members from the Scrutiny Pool, and shall then notify members of the Executive Board of the call-in. The Secretary shall call a joint meeting of Scrutiny Pool members on such date as he/she may determine, where possible after consultation with the Chair of the Scrutiny Pool, and in any case within 2 weeks of the decision to call-in;
- (ii) call-in a decision of the GMCA for scrutiny by a joint meeting of Scrutiny Pool members if so requested by any five members from the Scrutiny Pool, and shall then notify members of the GMCA of the call-in. The Secretary shall call a joint meeting of Scrutiny Pool members on such date as he/she may determine, where possible after consultation with the Chair of the Scrutiny Pool, and in any case within 2 weeks of the decision to call-in;
- (iii) call in a major or strategic decision made by the TfGMC in accordance with the delegations set out in Schedule 1, Parts B, C and D of this Operating Agreement for scrutiny by a joint meeting of Scrutiny Pool members if so requested by any five members from the Scrutiny Pool, and shall then notify members of the TfGMC of the call-in. The Secretary shall call a joint meeting of Scrutiny Pool members on such date as he/she may determine, where possible after consultation with the Chair of the Scrutiny Pool, and in any case within 2 weeks of the decision to call-in.

5.3.2 If, having considered :-

- (i) a decision made by the Executive Board or the GMCA; or
- (ii) a major or strategic decision made by the TfGMC in accordance with the delegations set out in Schedule 1, Parts B, C and D of this Operating Agreement;

the joint meeting of Scrutiny Pool members is still concerned about it, then it may refer it back to the Executive Board, the GMCA or the TfGMC (as appropriate) for reconsideration, setting out in writing the nature of its concerns. If a decision is referred by a joint meeting of Scrutiny Pool members to the Executive Board, the GMCA or the TfGMC (as appropriate), then the Executive Board, the GMCA or the

TfGMC (as appropriate) will reconsider the decision before adopting a final decision.

5.3.3 If, following an objection to:-

- (i) a decision of the Executive Board, or the GMCA; or
- (ii) a major or strategic decision made by the TfGMC in accordance with the delegations set out in Schedule 1, Parts B, C and D of this Operating Agreement;

the joint meeting of Scrutiny Pool members does not refer it back to the Executive Board or the GMCA or the TfGMC (as appropriate) for reconsideration, the decision shall take effect on the date of the joint meeting of Scrutiny Pool members.

5.3.4 The call-in procedure set out above, shall not apply where:-

- (i) the decision being taken by the Executive Board, or the GMCA;  
or
- (ii) the major or strategic decision made by the TfGMC in accordance with the delegations set out in Schedule 1, Parts B, C and D of this Operating Agreement;

is urgent.

A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the interests of the GMCA, the Constituent Councils, or the residents and/or businesses of Greater Manchester. The record of the decision and the notice by which it is made public shall state whether in the opinion of the decision making body, the decision is an urgent one, and therefore not subject to call-in. The Executive Board or the GMCA or the TfGMC (as appropriate) must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency.

## **6. Key principles for the operation of the scrutiny arrangements**

- 6.1 The Constituent Councils will work together to maximise the exchange of information and views, to minimize bureaucracy and make best use of the time of members and officers of other bodies or agencies.
- 6.2 Members of the Scrutiny Pool will, when considering reviews, determine whether the issue is more appropriately dealt with by one of the Constituent Councils or elsewhere and will not duplicate the work of existing bodies or agencies.
- 6.3 Subject to prior consultation, the Constituent Councils will respond positively to requests for information, or for the attendance of a member or officer at any meetings set up under these arrangements.

- 6.4 While it is ultimately for each Constituent Council to decide who it considers the most appropriate person(s) to speak on its behalf at any meetings set up under these arrangements consideration will be given to meeting specific requests.
- 6.5 Dates and times for officer and member attendance at any meetings set up under these arrangements should be by agreement.
- 6.6 Members appointed under these arrangements may request the attendance of officers employed by the Constituent Councils to answer questions and give evidence at any meetings set up under these arrangements. All such requests must be made via the Chief Executive of the relevant Constituent Council. If any request is declined by the Chief Executive, he/she must state the reasons for so doing.
- 6.7 When considering any matter in respect of which a Scrutiny Panel member appointed under these arrangements is subject to a party whip the member must declare the existence of the whip and the nature of it before the commencement of any deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## **7. Scrutiny Panels**

- 7.1 The annual meeting of members of the Scrutiny Pool will establish Scrutiny Panels to undertake agreed scrutiny reviews. Membership of the Scrutiny Panels will be determined at the annual meeting and the principle of political balance from across Scrutiny Pool members must be applied when membership is agreed.
- 7.2 Scrutiny Panels established by this Clause 7 shall include representatives from at least 7 of the Constituent Councils. Each Scrutiny Panel shall appoint a Chair and Vice Chair from amongst its members. Unless unanimously agreed by all members appointed to any Scrutiny Panel, the Chair and Vice Chair of each Scrutiny Panel must come from different political groups.
- 7.3 Scrutiny Panels established under this Protocol must be appointed to carry out specific scrutiny tasks and be time limited. Their continuation will be subject to confirmation at each annual meeting of the Scrutiny Pool members. Any Scrutiny Panel continuing for more than two years must be subject to confirmation by the Executive Board and/or the GMCA as appropriate.
- 7.4 The Executive Board and/or the GMCA may also, if they choose, request that a Scrutiny Panel drawn from amongst members appointed under Clause 3 of this Protocol be appointed to examine a specific

issue in more detail and report back its findings to the Executive Board and/or the GMCA as appropriate.

## **8. Reviews and recommendations**

- 8.1 The process of joint scrutiny will be an open and transparent process designed to engage the Constituent Councils, their residents and other stakeholders.
- 8.2 Meetings will be held in public unless the meeting decides to convene in private in order to discuss confidential or exempt information, in accordance with the relevant provisions of the LGA 1972 or LGA 2000.
- 8.3 The terms of reference, timescale and outline of any review will be agreed by Scrutiny Pool members appointed at their annual meeting.
- 8.4 Different approaches to scrutiny reviews may be taken in each case but members will seek to act in an inclusive manner and will take evidence from a wide range of opinion. The Scrutiny Pool will make specific efforts to engage with hard to reach groups.
- 8.5 The primary objective of any Scrutiny Panel established under these arrangements will be to reach consensus on its recommendations, but where a minimum number of 2 members express an alternative to the majority view, they will be permitted to produce a minority report.
- 8.6 Voting if needed will be by a show of hands and a simple majority will be required to approve any recommendation.

## **9. Budget and Administration**

- 9.1 The annual meeting of Scrutiny Pool members will prepare a budget to cover the costs of operating these arrangements in the forthcoming year and will submit this to the Executive Board and to the GMCA for agreement.
- 9.2 Contributions to the costs of the joint scrutiny arrangements shall be determined by apportioning the costs in such proportions as the Constituent Councils unanimously agree or, in default of such agreement, in proportion to the total resident population at the Relevant Date of the area of each Constituent Council as estimated by the Registrar General.
- 9.3 The budget will be required to meet all officer support to the joint scrutiny arrangements, including research support.
- 9.4 The decisions and recommendations of any Scrutiny Panels set up under these arrangements will be communicated to the Executive Board and/or the GMCA and/or the TfGMC and/or the TfGM as appropriate, other Scrutiny Pool members and Constituent Councils as

soon as possible after resolution by those appointed to any such Scrutiny Panel.

## **10. Support and advice to scrutiny arrangements**

- 10.1 Members appointed to any Scrutiny Panel under these arrangements may ask individuals or groups to assist it on a review by review basis and may ask independent professionals for advice during the course of reviews. Such individuals or groups will not be able to vote.
- 10.2 Members appointed to any Scrutiny Panel under these arrangements may invite any other person to attend their meetings to answer questions or give evidence; however attendance by such persons cannot be mandatory.

## **11. Linking Sub-Regional Scrutiny with Local Scrutiny**

- 11.1 The Scrutiny Officer of each Constituent Council will ensure that the work programmes and minutes relating to the work carried out by the Scrutiny Pool in scrutinising the Executive Board, GMCA, TfGMC and TfGM are circulated appropriately within their own Constituent Council's scrutiny arrangements.
- 11.2 The Secretary shall within 2 weeks of every meeting of a Scrutiny Panel produce an e-briefing for all members of the Constituent Councils that provides a user-friendly summary of the issues discussed at the Scrutiny Panel, together with links to any relevant reports and presentations. The Secretary shall quarterly produce an e-briefing for all members of the Constituent Councils that provides an updated work programme relating to the work to be carried out by the Scrutiny Panels in scrutinising the Executive Board, GMCA, TfGMC and TfGM.
- 11.3 Each Constituent Council will nominate one of the 3 members of that Constituent Council who have been appointed to the Scrutiny Pool in accordance with paragraph 3.1 of this Protocol to act as that Constituent Council's "AGMA Scrutiny Link". The AGMA Scrutiny Link will be responsible for reporting back to their own Constituent Council on the scrutiny work carried out by the Scrutiny Pool in relation to the Executive Board, GMCA, TfGMC and TfGM. The AGMA Scrutiny Link will also be responsible for reporting to the Scrutiny Pool any issues identified locally by their own Constituent Council which may warrant scrutiny at a sub-regional level. The nomination of an AGMA Scrutiny Link and the way in which this role will be performed will be determined by each Constituent Council.