Public Document Pack

CONSTITUTION

Item No

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Oldham Council

A Guide and Summary of the Oldham Metropolitan Borough Council's Constitution

The Aim of the Constitution

Oldham Metropolitan Borough Council has agreed a Constitution which sets out how the council operates, how decisions are made and the procedures that ensure these decisions are efficient, transparent and accountable to local people. Most of the procedures are required by law.

The Constitution is divided into 17 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 and the end of the document

You can see copies of the Constitution on the Council website, www.oldham.gov.uk via 'About the Council' and 'Council Constitution'.

The Council has a structure for decision-making. Under the arrangements, it is the responsibility of the Leader of the Council to determine the size and membership of the Cabinet. The Leader also determines the remit of each portfolio for the Cabinet Members.

The majority of decisions are taken by the Cabinet, either collectively or as Individual Cabinet Members in consultation with Officers or Officers under delegated powers, in accordance with the budgetary and policy framework set by the full Council..

The Council has four Overview and Scrutiny Boards. These Boards hold the Cabinet to account for its decisions and undertake service reviews and make recommendations on future policy options.

Some functions such as Planning, and Licensing cannot by law be the responsibility of the Cabinet. Council committees undertake these non-Cabinet functions.

What's in the constitution?

The Constitution contains details on:

article 1 – the constitution

article 2 – members of the council

article 3 – citizens of Oldham borough and the council

article 4 – the full council

article 5 – the mayor, deputy mayor, youth mayor and deputy youth mayor

article 6 – overview and scrutiny

article 7 – the executive

article 8 – regulatory and other committees

article 9 – the standards framework

article 10 - district working

article 11 - working in partnership

article 12 - joint arrangements

article 13 - officers

article 14 – decision making

article 15 – finance, contracts and legal matters

article 16 – review and revision of the constitution

article 17 – suspension, interpretation and publication of the constitution

This summary outlines how key parts of the Council operate. It includes openness in decision-making, and the rights of citizens in their dealings with the Council.

You will need to look at the full Constitution document itself for full details of our decision-making procedures.

Citizens' Rights/ Rights of Members of the Public

The public have a number of general rights in their dealings with us.

When members of the public use Council services, for example as parents of a school pupil, they have additional specific rights that are not covered below.

Members of the public have a general right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the full Council, the Cabinet and Council committees except where confidential matters are being discussed;
- find out from the Forward Plan what key decisions are to be taken and when by the Cabinet;
- see reports (and background papers) to the full Council, Cabinet, Cabinet members, Council committees and Scrutiny Boards, except those of a confidential nature, and a record of decisions taken;

- complain to the Council about our services in line with our formal complaints procedure;
- complain to the Local Government and Social Care Ombudsman if they think we have not followed our procedures properly;
- complain to the Monitoring Officer if they have evidence that they think shows that a Councillor has not followed our code of conduct;
- at the appropriate time each year, inspect our annual accounts and give the external auditor their views; and
- submit petitions in accordance with the Council's petitions scheme.

How Full Council operates

The Council comprises 60 Councillors who all meet in the Council Chamber at least six times a year. All meetings are broadcast live on our website to promote openness and transparency as part of the Administration's ambition to engage the public in such meetings.

The main role of the full Council is:

- to approve and determine policies that set the framework in which the Council carries out its functions;
- to set the Budget;
- to appoint the Leader;
- to elect a Chair of the Council – The Mayor;
- to agree annually the committees of the Council;
- to appoint the Head of Paid Service;
- to decide on election matters such as polling districts and polling places;
- to adopt and change the Constitution.

For each Council meeting, an agenda is published 5 clear days in advance of the meeting. Copies are sent to all members of the Council and can be accessed on our website at www.oldham.gov.uk via 'About the Council' and 'Meetings' (for clarification, notice of meetings of Full Council are given by Summons and other meetings are by notice). The minutes of the meetings, which record any decisions made, are also posted on our website as soon as practicable after the meeting. Decisions are made by a majority of the Members at meetings by either electronic voting, or by a show of hands or by affirmation of the meeting if there is no dissent, unless a recorded vote is requested.

The role of a Councillor

Councillors are normally elected for a four-year term with the elections in thirds unless there is a whole council election such as in 2023 and are democratically accountable to residents in their electoral division. Their overriding duty is to the whole community of Oldham, but they have a special duty to their constituents.

All Councillors will:

- Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- Be involved in decision-making, having due regard for the needs of the borough, district, ward and council;
- Participate in the governance and management of the Council and, where necessary, be involved in the exercise of the Council's quasi-judicial functions;
- Contribute to the good governance of the area, at borough and district level, and actively encourage community participation, citizen involvement and self-help;
- Balance different interests identified within the borough, ward or electoral division and represent the borough, ward or electoral division as a whole;
- Deal with individual casework, enquiries and representations, acting fairly and impartially as an advocate;
- Represent the work of the council to local people;
- Be an active and visible community leader on behalf of the whole community;
- Encourage and support local people to play a positive and active role in building a confident and ambitious borough where everybody does their bit;
- Act as corporate parents to looked after children in the borough;
- Maintain the highest standards of conduct and ethics in line with the Council's code of conduct;
- Commit to their ongoing development throughout their time as a councillor, attending such training, development and briefing sessions as may be relevant to any of the responsibilities they take on as a councillor;
- Be available to sit on an overview and scrutiny committee except for those members appointed to the Cabinet;
- Be available to represent the Council on other bodies;
- Act as an ambassador for the borough and the council at a local, regional and national level; and,
- Have overall responsibility for health and safety.

The Mayor

The Mayor and the Deputy will be elected by the Council annually. The Mayor and, in his/her absence, the Deputy Mayor will have the following roles and functions:

1. To uphold and promote the purposes of the Constitution, and to rule on the Constitution when necessary. The Council Procedure Rules give the Mayor specific powers in chairing Council meetings;
2. To preside over the principal 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 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 Cabinet are able to hold the Cabinet 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.

The Leader of the Council

1. The Leader will be a Councillor elected to the position of Leader by the Council.

2. The Leader’s term of office will end on the day when Council holds its first Annual meeting after the Leader’s normal day of retirement as a Councillor unless:

    a. he/she resigns from the office; or

    b. he/she is no longer a Councillor; or

    c. he/she is removed from office by resolution of the Council. A successor will be appointed at that meeting or subsequent meeting.

3. The Leader will:

    a. Provide appropriate political and strategic leadership and direction for the Council;

    b. Appoint between one and eight councillors, plus a statutory leader, to serve as the Council’s Cabinet;

    c. Agree the division of cabinet portfolios;

    d. Lead and chair the Cabinet to ensure its overall effectiveness;

    e. Ensure effective communication of all executive decisions to the Council and public;

    f. Ensure that the Cabinet manages the business of the Council within the policy framework and financial limits set by full Council; and,

g. Be the main representative of the Council, acting as an ambassador and champion for Oldham and the council in dealing with the community, businesses, voluntary and community sectors and other local and national organisations, other than in respect of ceremonial events. The Council has adopted the strong leader Model of Governance.

The Deputy Leader of the Council

The statutory Deputy Leader will:

a. Support and deputise for the Leader of the Council in delivering his/her executive functions;

b. Lead and chair the Cabinet and ensure its overall effectiveness in the absence of the Leader of the Council; and

c. Support and deputise for the Leader in his/her community liaison responsibilities.

The Cabinet

The Cabinet is the part of the decision-making process which is responsible for the more strategic decisions. The Cabinet is made up of a Leader, a Deputy Leader and up to 9 councillors appointed by the Leader.
The Cabinet takes the more strategic executive decisions and recommends proposals for approval by full council on the budget, Council Tax levels and the council's policy framework.

Within the budgetary and policy frameworks set by the full council, the Cabinet is responsible major decisions relating to the Council's executive functions in delivering services to the community.

Through partnership-working with local and public authorities and other stakeholders, the Cabinet is the engine for the continuous improvement of Borough's services to meet the needs of the Community. The Cabinet is at the forefront of community planning and promotes economic, social and environmental wellbeing in Oldham.

The Cabinet can form committees, working groups and panels.

The Cabinet meets every month, and agendas are published five clear working days in advance of the meeting. Copies are sent to all members of the Council and can be accessed on our website at www.oldham.gov.uk via 'About the Council' and 'Meetings'. The minutes of Cabinet meetings, which record any decisions made, are also posted on our website as soon as practicable after the meeting.

The responsibilities of Cabinet members

Only councillors may be appointed to the Cabinet. The Council designates one of the Members of the Cabinet as the Lead Member for Children's services for the purposes of section 19 of the Children Act 2004. Within the framework of the Council and any legal requirements, the Leader determines the Portfolios of Cabinet Members. There can be a maximum of 10 councillors on the Cabinet (including the Leader of the Council).

General requirements on Members of the Cabinet

In addition to the requirements to carry out executive functions, and to take decisions under the Scheme of Delegation, for each specific personal responsibility, members of the Cabinet will be required:

- to work, as appropriate, with the other Cabinet Members, and with Chief Officers and their staff, to compile and, after approval, to carry out the approved Budget and Policy Framework. The collective responsibility to implement the approved Budget and Policy Framework includes the obligations: to approve a balanced budget; to monitor financial performance during the year; and, when necessary, to ensure that remedial action is identified, then carried out;
- to represent the Council, or arrange for it to be represented, in all National, Regional and Local forums relevant to their responsibilities;
- to work, as appropriate, through formal and informal partnership with voluntary, private sector and other public sector interests to enhance the economic, social and environmental wellbeing of the local community;
- to contribute to the preparation, carrying out of strategies and plans for the Council;
- to liaise and work with other members of the Cabinet as and when required, balancing the need for advocacy and action in relation to any specific personal responsibility with cross-cutting and corporate perspectives and obligations;
- to commission relevant research, especially into better ways of service delivery for any specific personal responsibility. When doing this members of the Cabinet will be expected to place citizens' needs for services and information above the preferences of the providers of those services yet to recognise the practical, legal and financial constraints which apply;
- to liaise with and respond to the Chairs or Vice Chairs of the Overview and Scrutiny Committees as and when required, balancing the need for advocacy and action in relation to any specific personal responsibility with cross cutting and corporate perspectives and obligations;
- to be responsible for ensuring that reports of the External Auditor and other Inspectorates are properly considered and responded to;

- to ensure that all actions and activities of the Council, especially those in relation to any specific personal responsibility are carried out in a socially inclusive way, in full acknowledgement and discharge of the legislation on gender, race, disability and the environment;
- to contribute to the determination, adoption, application and review of operation of the Corporate and Service Strategies, Policies and Standards;
- to monitor the effectiveness of current service delivery, especially the satisfaction of recipients of it; and
- to support the Co-operative agenda.

Decision Making

What does the full Council do?

- Decides on the Constitution and any amendments;
- Agrees the Council's budget each year;
- Agrees the policy framework;
- Elects the Leader; and
- Appoints to Committees and Outside Bodies where non-executive.

What does the Cabinet do?

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;

- the Cabinet
- a Committee of the Cabinet
- a Member of the Cabinet in consultation with an Executive Director
- an Officer of the Council
- a District Lead
- Joint Committee

Powers of the Cabinet

- Implement agreed policies
- Give political leadership
- Make key decisions
- Proposes the policy framework
- Proposes the budget
- Makes recommendations to the full Council

Key decisions and the Forward Plan

When major decisions are to be discussed or made, these decisions are published by the Council in the Forward Plan in so far as the decision can be anticipated. The plan is published each month. The plan briefly describes any key decisions likely to be made over the next four months, who will make them and what the consultation arrangements will be. The Forward Plan can be accessed on the Council's website, www.oldham.gov.uk Currently, the Cabinet makes key decisions.

A key decision is a decision which is:

- any decision which is likely to result in the Council incurring expenditure which is, or the making of savings which are, above £250k; or

- to be significant in terms of its effects on communities living or working in the area comprising two or more wards in Oldham.

Key Decisions cannot always be identified in advance. In exceptional circumstances, key decisions that are not on the Forward Plan but can be displayed in the public domain for at least five clear days can be taken as long as the Chair of the relevant Overview and Scrutiny Board is notified in advance of the decision being taken.

If in exceptional circumstances a key decision is so urgent that it cannot be placed on the Forward Plan or details of that decision cannot be placed in public domain for at least five clear days, the Chair of the relevant Overview and Scrutiny Committee must agree the reasons for urgency before the decision can be taken. Such decisions are reported annually to the Council.

The role of Overview and Scrutiny

The Council has four Overview and Scrutiny Boards. The Boards do not take any decisions in relation to the functions of the Council. Their role is to monitor anticipated decisions and decisions made by the Cabinet and make recommendations on the way services are provided. In summary:

- **Scrutiny Boards**
  Provide an opportunity for Councillors to examine Cabinet and Cabinet Member decision making by way of 'call in' and to look in detail at the performance of particular services.

- **Task and Finish Groups**
  Opportunity to undertake in-depth analysis of the policies and practices of specific areas and identify areas for future policy development work.

The Boards act as a check on the Cabinet by holding them to account for their decisions. They also review council policies and service delivery and play a major part in developing policy.

Members of the Cabinet may not be members of an Overview and Scrutiny Board.

Call In

A call-in is a referral of a decision made but not yet implemented. Overview and Scrutiny Boards or two or more councillors may ‘call-in’ a decision made by the Cabinet or a decision made by a Member . The process allows the Overview and Scrutiny Board to reconsider a decision made which is an executive function. The Boards can do this by:

- directly asking the decision-taker to reconsider; or
- Referring the matter to full council to debate whether the decision-taker should reconsider it, if outside the budget and policy framework.

Councillors / Overview and Scrutiny cannot use this procedure if the decision is urgent and needs to be implemented immediately.

Other council committees

By law, some important council functions cannot be undertaken by the Cabinet and are the responsibility of the following committees:

Planning Committee

- Deals with applications for planning permission and related planning issues. The Planning Committee considers reports which must only contain relevant planning considerations.

Licensing Committee

- Makes decisions on policy for all licensing matters within the Borough.

The Audit Committee

- Monitors the scope and adequacy of internal and external audit.

The Standards Committee

Comprising seven Councillors, two Parish/Town Councillors and four independent persons, the Standards Committee aims to ensure that councillors maintain the highest ethical standards across all areas of the Council’s services.

The Standards sub-committee can consider complaints against Councillors and decides any appropriate sanctions where a breach of the Code of Conduct for Councillors has been found.

The Appointments Committee

Makes decisions on the appointment and dismissal of chief officers and any structure changes in the Senior Management Team and recommends to Council the appointment of Head of Paid Service.

Appeals Committee

The Appeals Committee deals with appeals relating to employment dismissals, which have not been delegated elsewhere to a committee or officer under relevant council approved policies and procedures.

District Working

The five districts of Oldham contain all the wards of the elected members, who represent our communities within the borough of Oldham. A Councillor serves as District Lead for the district to work closely with all elected members in their district to support them in their role as strong local leaders.

Officers of the council

Officers serve the whole Council. There are administrative, professional, technical and operational staff that advise the full Council, Cabinet, Committees and Scrutiny Boards on all aspects of Council functions and put into effect the decisions, and provide to the public the services for which the Council is responsible.

The Executive Team

The Executive Team comprises Oldham Council's Chief Executive and the Executive Directors. The Team is responsible for managing a range of services as well as directing the overall improvement and future plans for Oldham. The Executive Team provides managerial leadership of the Council and supports Elected Members of the Council in:

- developing strategies,
- identifying and planning resources,
- delivering plans, and
- reviewing the Authority's effectiveness with the overall objective of providing excellent services to the public.

The Executive Team works together to achieve the most effective services possible for the Borough's diverse communities. It also ensures that Oldham plays a full part in national, regional and sub-regional activities. It

commissions, leads, directs and undertakes programmes/projects to achieve the objectives of the corporate work programme, modernise the Council and address the issues of Borough community cohesion.

The Team will work with other local organisations to promote the interests of Oldham. This will involve liaising with a wide of partners, including:

- Leading Oldham Partnership
- Local people and businesses,
- The voluntary sector, and
- Greater Manchester Authorities.
- Health bodies

Chief Officers will be responsible for leading on some of the main partnership arrangements throughout the Borough including key neighbourhood based activity.

The Executive Team is responsible for agreeing personal performance objectives and targets, and participating in regular performance appraisals.

The Team will also be party to agreeing performance objectives and targets for direct staff reports which deliver the Council's vision, values, priorities, policies and objectives. This process includes the provision of regular monitoring, feedback, coaching, mentoring and development.

Statutory officers

Each Council must have:

- A Head of Paid Service
- A **monitoring officer** to ensure the decisions and actions of the council are lawful; and
- A **chief finance officer** to ensure that the council's financial affairs are properly administered and that actions and decisions are in accordance with the council's budget.

The Council's Monitoring Officer is:
Alex Bougatef
Director of Legal (Monitoring Officer)

The Council's Chief Finance Officer and Section 151 Officer is:
Lee Walsh
Director of Finance

Partnerships and Joint Arrangements

Leading Oldham Partnership

The Leading Oldham Partnership brings together business, community, and public sector leaders to guide the borough's strategic plan—*Pride, Progress, Partnership*. It takes collective responsibility and action for the three missions:

- Healthier, Happier Lives
- A Great Place to Live
- Green and Growing

Joint Arrangements

Greater Manchester Devolution

Greater Manchester is one of the country's most successful city-regions. Home to more than 3 million people and with an economy bigger than that of Wales or Northern Ireland. Our vision is to make Greater Manchester one of the best places in the world to grow up, get on and grow old. We're getting there through a combination of economic growth, and the reform of public services.

The GMCA gives local people more control over issues that affect their area. It means the region speaks with one voice and can make a strong case for resources and investment. It helps the entire north of England achieve its full potential.

The GMCA is run jointly by the leaders of the ten councils and the Mayor of Greater Manchester.

A variety of boards, panels and committees look specifically at areas like transport, health and social care, planning and housing.

Greater Manchester Combined Authority

The Greater Manchester Combined Authority (GMCA) is a statutory corporate body established on 1 April 2011 under the Local Democracy, Economic Development and Construction Act 2009 and is made up of the ten Greater Manchester councils and Mayor, who work with other local services, businesses, communities and other partners to improve the city-region.

The ten councils (Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Stockport, Tameside, Trafford and Wigan) have worked together voluntarily for many years on issues that affect everyone in the region, like transport, regeneration, and attracting investment.

The Greater Manchester Combined Authority has strong governance arrangements with a number of Committees focused on its specific areas of remit including:

• transport
• economic development, regeneration and housing
• strategic spatial planning
• education, skills and training
• police and crime
• fire and rescue
• public health
• waste

GMCA structure
The Authority's constitution is set out in an Operating Agreement, which has been approved by all 10 constituent councils. This Agreement also sets out the terms of reference and rules of procedure.

Association of Greater Manchester Authorities Executive
The Association of Greater Manchester Authorities (AGMA) acts as the voice of the ten local authorities of Greater Manchester in a strong partnership with the Greater Manchester Combined Authority, to drive regional policy, public services and economic strategy.

Peak District National Park Authority is responsible for setting policies and objectives and ensuring resources are well used in the National Park. Part of the Borough of Oldham is included in the area covered by the Peak District National Park Authority and the Council is represented on the Authority by one Councillor.

Codes of conduct for councillors and officers

Everyone in public office should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Councillors must observe the council's code of conduct, which among other things requires them to disclose pecuniary interests and other personal interests on any matter requiring a decision. Councillors also have a general obligation to:

- Act with integrity and honesty;
- Act lawfully;
- Treat all persons fairly and with respect; and
- Lead by example and act in a way that secures public confidence in the role of Councillor.

Officers have to observe a similar code of conduct that sets guidelines on behaviour and standards of conduct at work and extend to other situations outside work that may result in a conflict of interest or impact on their suitability for their role.

Council Procedure Rules, financial regulations and procurement rules

These contain the detailed procedural rules that must be followed in conducting council business.

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How to navigate the constitution

This document intends to help people navigate and use the constitution.

Section 1 of this document (Parts of the Constitution), describes the overall parts of the constitution and what they contain.

Section 2 of this document (Articles of the Constitution) describes the main Articles of the Constitution.

Section 3 of this document (Reference Table) is a table which sets out the main Articles of the Constitution and highlights other sections of the document which apply to each of the articles.

1. Parts of the Constitution

PART 1	**Summary and Explanation** This section summarises what is in the Constitution, and contains the overall aims and objectives of the Council. It also highlights how decisions are made and what rights citizens have when participating in decision making and the democratic processes.
PART 2	**Articles of the Constitution** These are the main articles of the Constitution which describe how the Council works. Article 1 explains the purpose of the Constitution and Articles 2- 16 explain the rights of citizens and how key parts of the Council operate.
PART 3	**Responsibility for Functions** This section sets out the purpose of key decision making of committees how they operate and what responsibilities they have.
PART 4	**Rules of Procedure** This section contains the rules for important Council procedures, such as Full Council, for Cabinet and Overview and Scrutiny.
PART 5	**Codes and Protocols** This section contains codes of conduct for both Elected Members and Council officers. The codes of conduct are sets of rules which specify how members and officers should act in their professional capacity, and what rules they need to adhere to. It also contains other protocols such as the Land and Property Protocol.
PART 6	**Members Allowances Scheme** The Members Allowances Scheme sets out how Elected Members are paid for specific duties undertaken for the Council.

PART 7	**Management Structure** This is a structure diagram which shows the way the Council and its departments are organized.
PART 8	**Public Access to Information** This section includes information on how members of the public can access Council information and interact in decision making and the democratic processes.
	Participation Protocols Rules for public participation at the Planning Committee and at Overview and Scrutiny meetings and other meetings.

2. **Articles of the Constitution**

Article 1 Purpose of the Constitution	Explains the purpose and role of the Constitution.
Article 2 Members of the Council	This describes the role of Elected Members of the Council
Article 3 Citizens and the Council	This details the rights of citizens and how they are able to participate in local democracy
Article 4 The Full Council	The role of the Full Council meeting
Article 5 Chairing the Council	The role and function of the Mayor and Deputy Mayor
Article 6 Overview and Scrutiny bodies	Description of the overview and scrutiny bodies that exist within the Council, and their terms of reference, which details what they do and how they operate

Article 7 The Cabinet	The role and composition of the Councils Cabinet – which is the Executive decision making body made up of Elected Members .
Article 8 Regulatory and other Committees	Description of the regulatory and other committees, including Planning, Licensing, Audit and Appeals
Article 9 The Standards Committee	Description of how the Standards Committee operates.
Article 10 District Working	How the 5 District Leads Work .
Article 11/12 Working in Partnership Joint Arrangements	The ability of the Council to enter into partnerships, joint arrangements and other forms of joint working with other organisations
Article 13 Officers	The management structure of the Council including descriptions of the functions of some chief officers
Article 14 Decision making	How decisions are made and who is responsible for making them. This section includes the Council's definition of a key decision.
Article 15 Finance, contracts and legal matters	How the Council conducts its financial, procurement and legal matters.
Article 16/17 Review and revision of the Constitution Suspension , Interpretation of Constitution	How and how often the Constitution is revised.

3. Reference Table

PART 2 Articles	PART 3 Responsibility for Functions	PART 4 Rules of Procedure	PART 5 Codes and Protocols	PART 6 - Members Allowance Scheme & PART 7 - Organisational Structure Chart	APPENDICIES
Article 1 The Constitution					
Article 2 Members of the Council			Members Code of Conduct. Including: Register of Members personal interests, and Members Register of Gifts and Hospitality	Part 6 - Members Allowance Scheme	
Article 3 Citizens and the Council		Access to Information Procedure Rules (also applicable to all bodies in part 3)			Public Access to Information
Article 4 The Council meeting	1. Matters reserved to the Council	• Council procedure rules • Procedure for Notices of Motion (No Amendment) • Procedure for Notice of Motion (With Amendment) • Time limits for Council			
Article 5 Chairing the Council		• Council procedure rules • Procedure for Notices of Motion (No Amendment) • Procedure for Notice of Motion (With Amendment) • Time limits for council			
Article 6 Overview and scrutiny of	4. Terms of reference of the Overview and Scrutiny Bodies	Overview and Scrutiny procedure rules			

3. Reference Table

decisions	5. Roles and Responsibilities of the Overview and Scrutiny Chair				
Article 7 The Cabinet	2. Terms of reference of the Cabinet 3. Roles and Responsibilities of Cabinet Members	Cabinet Procedure rules (Rules 13-24) (how the Cabinet makes decisions including: • Key decisions • Key Decision Document Urgent decision making • General exception (rule 16) • Cases of special urgency (rule 17) (How decisions are made – description of call-in procedure)			
Article 8 Regulatory and other Committees	Terms of Reference for Committees				Referral procedure for planning applications
Article 9 The Standards					

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Committee					
Article 10 District Working					
Article 11/12 Joint arrangements	Joint arrangements				
Article 13 Officers	Officer Scheme of Delegation	Officer Employment Procedure Rules (The recruitment and appointment of Head of Paid Service and Chief Officers)	Employee Code of Conduct (and employee interests) Including: • Protocol for member / officer working arrangements • Land and Property protocol • Petitions protocol	Part 7 -Organisational Structure Chart	
Article 14 Decision making					
Article 15 Finance, contracts and legal matters		Financial rules of procedure (the Council's duty to make arrangements for the proper administration of its financial			

3. Reference Table

		affairs, including preparing and managing the revenue and capital budget.)			
Article 16 Review and revision of the Constitution					
Article 17 Suspension, interpretation and publication of the Constitution					
OTHER SECTIONS		Budget and Policy Framework Procedure Rules (a framework for executive decisions) Contract procedure rules – the procurement procedure including the tender process.			

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Part 1
Summary And Explanation

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PART 1 - SUMMARY AND EXPLANATION

The Constitution

Oldham Metropolitan Borough Council has agreed a 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 17 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 the end of the document.

Missions of the Council

Our three missions set a clear and bold direction for Oldham Council. They reflect our commitment to creating a better future for all who live, work, and invest in Oldham. They have partnership at their heart as we share them with Pride, Progress, Partnership – the Oldham 2030 Plan. They will guide our shorter-term actions, ensuring that every step we take drives meaningful change. At the same time, they provide us with a long-term vision and a clear definition of what success looks like for Oldham. Our three missions are:

1. **Healthier, Happier Lives**: In Oldham, every individual matters. We aim to build a community where everyone has access to the care, support, and opportunities they need to live a good life. We are committed to tackling poverty, improving health and well-being, providing high-quality social care, and promoting lifelong education.

2. **Great Place to Live**: We know Oldham is a place where people love to live, and we're committed to building on that pride by providing more affordable, quality homes, improving public spaces, and creating a strong local economy with vibrant communities that get on well.

3. **Green and Growing**: We will make Oldham a place where economic growth benefits all residents, creating opportunities for businesses to succeed while ensuring our community and environment thrive. By attracting new investment, supporting local businesses, and leading in green technologies, we will generate quality job opportunities and equip people with the skills they need to succeed.

The three missions form the basis of the Council's Corporate Plan. The Corporate Plan is the Council's main strategy document. Its primary purpose is to set out our story of place and our priorities for Oldham - what we are doing and why we are doing it.

What's in the Constitution?

Article 1 of the Constitution explains the purpose of the Constitution. Articles 2 – 17 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens of Oldham Borough and the Council (Article 3).
- The Full Council (Article 4).
- Mayor and Deputy Mayor (Article 5).
- Overview and Scrutiny (Article 6).
- The Executive (Article 7).
- Regulatory and other Committees (Article 8).
- The Standards Framework (Article 9).
- District Working (Article 10).
- Working in Partnership (Article 11)
- Joint Arrangements (Article 12).
- Officers (Article 13).
- Decision Making (Article 14).
- Finance, Contracts and Legal Matters (Article 15).
- Review and Revision of the Constitution (Article 16).
- Suspension, interpretation and publication of the Constitution (Article 17).

How the Council operates

The Council is composed of 60 Councillors elected every four years 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 Monitoring Officer and the Standards Committee ensure that training and advice is provided on the Code of Conduct.

All Councillors meet together as the Full Council. Meetings of the Council are normally open to the public. The Council decides the overall policy framework and sets the budget each year. The Council elects the Leader of the Council (the 'Leader') to lead in the delivery of executive functions and to determine appropriate decision making arrangements in respect of these functions. The

Council appoints Committees and Scrutiny Boards, and delegates to Officers to assist in the delivery of Council functions.

The role of the full Council is detailed in Article 4 of this Constitution.

How decisions are made

The Executive

The Executive is responsible for executive decisions on behalf of the Council. The Cabinet, the principal executive decision making body, is made up of the Leader and up to 9 other Councillors appointed by the Leader, one of whom will also be appointed Deputy Leader of the Council (the 'Deputy Leader'). As well as the Cabinet, the Leader may also decide to delegate executive functions to Cabinet Committees or Boards, individual Cabinet Members, District Leads and Officers, or arrange for functions to be delivered through joint arrangements.

When key decisions are to be discussed or made, these are published in the forward plan, in so far as they can be anticipated. If these major decisions are to be discussed at a meeting of the Cabinet, this meeting will be open for the public to attend except where confidential or 'exempt' items are being discussed (See Access to Information Procedure Rules). The Cabinet has to make decisions which are in line with the Council's overall policy framework and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Full Council as a whole to decide.

Regulatory and other Committees

Functions that are not the responsibility of the Executive, for example planning and licensing, are Council or 'non-executive' functions. The Council may delegate these functions to Committees and Officers, or may arrange for functions to be delivered through joint arrangements.

Overview and Scrutiny

The Council's Overview and Scrutiny arrangements support the work of the Executive and of the Council as a whole. The Council has four Scrutiny Boards:-

- Adults Social Care and Health Scrutiny Board
- Children and Young People Scrutiny Board
- Governance, Strategy and Resources Scrutiny Board
- Place, Economic Growth and Environment Scrutiny Board

These Boards contribute to policy development and review and they may be consulted on the development of key policies or specific decisions. The Governance, Strategy and Scrutiny Board is consulted by the Cabinet on the development of the Council budget. Scrutiny Boards may undertake scrutiny reviews and make recommendations to the appropriate decision taker. Scrutiny

Boards can ‘call-in’ a decision that has been made by the Cabinet (or a Cabinet Member) but not yet implemented. A Scrutiny Board will review any decision that is called-in and make recommendations if appropriate. Scrutiny Boards may also be consulted on the development of the budget, key policies or specific decisions.

Council Employees

The Council has people working for it (called ‘Officers’) to give advice, implement Councillors’ decisions, manage the day-to-day delivery of services and deliver those services to residents and customers. Some employees have a specific duty to ensure that the Council acts within the law and uses its resources wisely. Employees have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties, and a Protocol governs the relationships between employees and Members of the Council. These documents are included at Part 5 of this Constitution.

Citizens’ Rights

Citizens have a number of rights in their dealings with the Council. These are further considered in Article 3 of this Constitution. Some of these are legal rights, whilst others depend on the Council's own processes. 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 this Constitution.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council, Cabinet and any Committees of the Council or of the Cabinet except where confidential or ‘exempt’ matters are being discussed, confidential and exempt matters being as described in the Access to Information Procedure Rules at Part 4 of this Constitution;
- inspect agenda, reports and background papers both before and after meetings of the Council, the Cabinet or any Committees of the Council or the Cabinet, except where those documents contain confidential or ‘exempt’ information;
- inspect minutes or decision notices arising from meetings of the Council, the Cabinet or any Committees of the Council or the Cabinet or from any decision taken by an individual Cabinet member or, in certain circumstances, an Officer under delegated powers.
- petition to request a referendum on a mayoral form of Cabinet;

- participate in public question time at most meetings of the Council and contribute to investigations by the overview and scrutiny boards when requested;
- speak at meetings of the Planning Committee on individual planning applications in accordance with the protocol attached at Appendix 3 to this Constitution;
- find out, from the forward plan, what key decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers, and when;
- to have 28 days notice of what business is likely to be considered in private at an executive meeting;
- to be able to audio or video record meetings of the Council, Cabinet or any Committee, except when the meeting is considering confidential or 'exempt' information and the public have been excluded from the meeting;
- complain to the Council in accordance with the Council's adopted complaints process;
- complain to the Local Government and Social Care Ombudsman if they think the Council has not followed its procedures properly. However, this should only be done after using the Council's own complaints process;
- complain to the Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct;
- inspect the Council's accounts and make their views known to the external auditor;
- inspect documents deposited with the Council under the provisions of an Act of Parliament or statutory instrument or pursuant to the Rule of Procedure of either House of Parliament; and
- make copies of or extracts from or, subject to the payment of a reasonable fee, to require a photographic copy or extract from any document which the public are entitled to inspect.

District Working

The Council has five District Leads as detailed at Article 11. The role of the District Lead is to work closely with all elected members in their district to support them in their role as strong local leaders. The District Lead also plays a vital role in championing the needs of the District. They provide leadership across the district and ensure parallels exist between corporate and local priorities.

The role is a strategic position that requires vision and the ability to look beyond ward issues to those that affect the district as a whole. It is important that the District Lead is able to make decisions based on district priorities which may not always align fully with ward priorities.

References to Statutory Provisions

All references in the Constitution to Statutory provisions shall include any subsequent legislation, Statutory Instruments, Regulations, Orders or Guidance issued under those statutory provisions.

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PART 2: 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 the Oldham Metropolitan Borough Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

a. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
b. support the active involvement of citizens in the process of local Council decision-making;
c. help Councillors represent their constituents more effectively;
d. enable decisions to be taken efficiently and effectively;
e. create a powerful and effective means of holding decision-makers to public account;
f. ensure that no one will review or scrutinise a decision in which they were directly involved;
g. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
h. provide a means of improving with regard to best value principles the delivery of services to the community; and
i. assist in seeking continued improvement in the delivery of services to the community by the Council itself and in partnership with other organisations.

1.4 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above. The Council will monitor and evaluate the Constitution as set out in Article 16 to ensure that the aims and purposes of the Constitution are given full effect and continue to remain relevant to the Council and the community.

PART 2: ARTICLE 2 – MEMBERS OF THE COUNCIL

2.1 Composition and eligibility

2.1.1 **Composition**.
The Council will comprise 60 members, otherwise called Councillors. Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by Parliament.

2.1.2 **Eligibility**.
Only registered voters of the area or those who during the previous 12 months have occupied land as an owner or tenant or have worked in the Oldham Council area are eligible to hold the office of Councillor. This is subject to the statutory disqualifications.

2.2 Election and terms of Councillors

2.2.1 The ordinary election of a third of all Councillors will be held on the first Thursday in May in each year beginning in 2024 (unless otherwise stipulated by legislation), except that in 2025 and every fourth year after, there will be no regular election. The terms of office of Councillors 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.

2.2.2 Casual vacancies which arise as a result of a Councillor ceasing to be a Member of the Council before the end of their term of office are filled by the holding of a by-election which shall be held on an appropriate Thursday. However, should a person cease to be a Councillor in the final six months of their term of office, the election may be held in abeyance until the normal May election.

2.3 Roles and functions of all Councillors

2.3.1 **Key roles.**
All Councillors will:

a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions
b) effectively represent their communities, balancing the different interests identified in the Ward or the community, and bring their views into the Council's decision making process, i.e. become the advocate of and for their communities;
c) contribute to the good governance of the area and actively encourage community public participation and citizen involvement in decision making;

d) deal effectively with individual casework fairly and impartially, and act as an advocate for constituents in seeking to resolve particular concerns or grievances;
e) participate in the governance and management of the Council, being involved in decision making and, as required, in the exercise of the Council's quasi-judicial functions;
f) be available to represent the Council on other bodies; and
g) maintain the highest standards of conduct and ethics.

2.3.2 **Rights and duties**

a) 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.
b) 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. For this purpose, "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 Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

PART 2: ARTICLE 3 – CITIZENS OF OLDHAM BOROUGH AND THE COUNCIL

3.1 Citizens' rights

3.1.1 Citizens have the rights as outlined in this Article. The rights to information and to participate are explained in more detail in the Access to Information Procedure Rules at Part 4B and in Appendix 1 of this Constitution.

3.1.2 **Voting and petitions**
Citizens lawfully on the electoral roll for the area have the right to vote in elections and referenda held in their electoral area and to sign a petition to request a referendum for an elected mayor form of Constitution.

3.1.3 **Information**
Citizens have the right to:

a) be able to consult or obtain a copy of this Constitution
b) attend meetings of the Council and the Cabinet and of their respective Committees and Boards, except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
c) find out from the Key Decision Document what key decisions will be taken by the Cabinet, a Cabinet Committee or Board;
d) find out from the published Notice what business is going to be considered in private at meetings of the Cabinet and at Cabinet Committees and Boards and how to make representations about this;
e) see reports and background papers, and any records of decisions made by the Council, Cabinet, any Council or Cabinet Committee or Board, an individual Cabinet Member and, in certain circumstances, an Officer under delegated powers, except where they contain confidential or exempt information;
f) inspect the Council's accounts and make their views known to the external auditor; and
g) inspect documents deposited with the Council under the provisions of an Act of Parliament or a statutory instrument or pursuant to the Rule of Procedure of either House of Parliament.

3.1.4 **Participation**.
Citizens have the right to:

a) participate in the Council's question time arrangements at meetings of the Council, Cabinet, Committees and Boards;
b) contribute to investigations by overview and scrutiny committees in accordance with Overview and Scrutiny Procedure Rules at Part 4 of this Constitution;

c) speak at meetings of the Planning Committee on individual planning applications in accordance with the protocol attached at Appendix 3 to this Constitution; and
d) be consulted on matters where there is a statutory requirement for the Council to consult and in other circumstances where the Council considers it right and proper to do so.

3.1.5 **Complaints**

Citizens have the right to complain to:

a) the Council itself under its complaints scheme;
b) the Local Government and Social Care Ombudsman after using the Council's own complaints scheme;
c) the Council's Monitoring Officer about a breach of the Councillors' Code of Conduct and
d) the Information Commissioner about a breach of the Data Protection Act 1998 and 2018 in the processing of their personal data and about failure to uphold their information Access rights under Freedom of Information Act 2000 and Environmental Information Regulations 2004.

3.2 **Citizens' Responsibilities**

Citizens must not be violent, abusive or threatening to Councillors or Council employees and must not willfully harm things owned by the Council, Councillors or Council employees.

PART 2: ARTICLE 4 – THE FULL COUNCIL

4.1 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 at Part 4A of this Constitution.

4.2 Functions of the full Council

Only the Council will exercise the following functions:

a) adopting the Constitution;
b) electing the Mayor and appointing the Deputy Mayor;
c) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer;
d) subject to the urgency procedure contained in the Budget and Policy Framework Procedure Rules at Part 4C of this Constitution, making decisions about any matter in the discharge of an executive function 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;
e) electing the Leader of the Council;
f) agreeing and/or amending the terms of reference for Council Committees and Overview and Scrutiny Committees, deciding on their composition and making appointments to them (unless delegated), including appointments of independent and co-opted members, where appropriate;
g) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
h) adopting a Code of Conduct for elected and co-opted members and appointing Independent Persons to advise the Council, Standards Committee and others on matters relating to complaints against such members;
i) adopting a scheme of Members Allowances and determining Mayoral and Deputy Mayoral allowances;
j) confirming the appointment of the Head of Paid Service and the dismissal of the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer;
k) all non-Executive functions which the Council decides should be undertaken by itself rather than a committee, including
    i. changing the name of the area;

ii. conferring the title of Honorary Alderman or Freedom of the Borough; and

iii. making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills;

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

4.3 The full list of Council functions, comprising both those functions above that the Council must undertake and such other functions that the Council has reserved to itself, is shown at Section 3 of Part 3 (Responsibility for Functions) of this Constitution.

4.4 **Meanings**

4.4.1 **Policy Framework**

The Policy Framework means the following plans and strategies:

- Licensing and Gambling Policies;
- Plans and Strategies which together comprise the Local Plan – Core Strategy (Development Plan document)
- Community Safety and Cohesion Partnership Strategy including crime and disorder reduction strategy;
- Oldham Plan (sustainable community strategy); and
- Youth Justice Plan.
- Children's and Young People Strategic Plan;
- The Council's Corporate Plan; and
- Pay Policy Statement.

Additional plans and strategies may be approved or adopted as part of the Policy Framework from time to time.

Any minor changes to the Policy Framework documents can be determined by the Chief Executive in consultation with the Leader of the Council and Leader of the Main Opposition Group and referred to the next Council meeting.

4.4.2 **Budget**

The Budget means

- 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 and any other required calculations under the 1992 Act;
- estimates of other amounts to be used for the purposes of such a calculation (including the allocation of financial resources to different services and projects);
- estimates of such a calculation;

- amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992;
- the setting of virement limits;
- Medium Term Financial Strategy; and
- Capital Strategy.

4.4.3 **Housing Land Transfer**

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

PART 2: ARTICLE 5 – THE MAYOR, DEPUTY MAYOR, YOUTH MAYOR AND DEPUTY YOUTH MAYOR

5.1 Role and function of the Mayor and Deputy Mayor

5.1.1 The Mayor will be elected and the Deputy Mayor appointed at the annual meeting of the Council. The Mayor and, in his/her absence, the Deputy Mayor will have the following roles and functions:

a) to uphold and promote the purposes of the Constitution, and to rule on the Constitution when necessary;
b) to preside over the principal meetings of the Council in accordance with Council Procedure Rules at Part 4A of the Council's Constitution so that the business of the Council can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and a place at which members who are not on the Cabinet are able to hold the Cabinet to account;
d) to determine matters relating to key decisions and the consideration of executive matters in private in the absence of the Chair of the Overview and Scrutiny Committee(s) as specified in the Access to Information Procedure Rules at Part 4B of the Council's Constitution;
e) to promote public involvement in the Council's activities;
f) to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

5.1.2 The Mayor cannot be a member of the Cabinet. No member of the Cabinet may chair a meeting of the Council in the absence of the Mayor.

5.2 Role and function of the Youth Mayor and Deputy Youth Mayor

5.2.1 The Youth Mayor will be the outgoing Chair of the Youth Council, to enable a confident, trained and experienced person to hold the position of Youth Mayor.

5.2.2 The Deputy Youth Mayor will be current Chair of the Youth Council. Should the outgoing Chair not wish to be the Youth Mayor, there will be an internal election within the Youth Council.

5.2.3 The Oldham Youth Mayor has the following responsibilities:

a) to attend at a range of Civic Duties throughout the year alongside the Mayor to represent young people;
b) to attend a range of Civic Duties throughout the year without the Mayor;
c) to be an advocate for Children and Young People at a range of events and ceremonies;
d) to represent a positive image of Children and Young People in Oldham;
e) to be an active member of Oldham Youth Council;

f) to report to Oldham Youth Council each month and give an update of their work;
g) to represent the views and opinions of Oldham young people and Oldham Youth Council; and
h) to be a link between Young People and Councillors.

PART 2: ARTICLE 6 – OVERVIEW AND SCRUTINY

6.1 Terms of Reference

The Council will appoint such Overview and Scrutiny bodies as it considers appropriate to discharge the Overview and Scrutiny functions conferred by sections 9 and 21 of the Local Government Act 2000, section 19 of the Police and Justice Act 2009 and, to the extent as determined by the Council under section 28 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, sections 20-27 of those 2013 Regulations. The Overview and Scrutiny bodies established, and their respective terms of reference, are shown at Section 3 of Part 3 of this Constitution.

6.2 General Role and Function

Members of Overview and Scrutiny bodies established will, within their respective terms of reference,

a) play a positive role in assisting the Council and the Executive in the development of the policy framework and the budget by in depth analysis of issues arising;
b) conduct research and consultation in the analysis of policy options;
c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options and in the scrutiny process in general;
d) question members of the Executive and appropriate Committees and senior Officers about issues and proposals affecting Oldham;
e) monitor the performance of partners and of internal and external service providers against standards and objectives, liaising with external and partnership organisations to ensure that the interests of local people are enhanced by collaborative working;
f) evaluate the validity of executive decisions through the call in process;
g) contribute to the identification and mitigation of risk;
h) examine and review the performance of Committees of the Council over time;
i) play a positive role in examining and reviewing the performance of the Executive in relation to its policy objectives, performance targets and/or particular service areas, investigating and addressing the causes of poor performance;
j) question members of the Executive and of Committees and senior Officers about their decisions and performance, in comparison with service plans and targets, or particular initiatives or projects;
k) make recommendations to the Council, the Executive or an appropriate Committee arising from the outcome of the scrutiny process; and
l) demonstrate an objective and evidence based approach to scrutiny.

6.3 Proceedings of Meetings and the Scrutiny Function

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

6.4 Interests in relation to Overview and Scrutiny Committees

In addition to any interest a Member may need to declare in accordance with the Members' Code of Conduct at Part 5A of this Constitution, no Councillor shall participate in any business before an Overview and Scrutiny Committee if they were party to the decision made in respect of that item.

6.5 Whipping

The whip shall not apply from any of the political groups on their respective members on the Overview and Scrutiny Committee while taking part in Overview and Scrutiny business.

6.6 Scrutiny Officer

The Council will designate one of its officers to act as the Scrutiny Officer for the Council to

- promote the role of the authority's overview and scrutiny committee(s);
- provide support to the authority's overview and scrutiny function and members of those Committee; and
- provide guidance to Members and officers of the Council in relation to overview and scrutiny functions.

PART 2: ARTICLE 7 – THE EXECUTIVE

7.1 Role

The Executive carries out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. All executive functions are vested in the Leader of the Council (the "Leader") who may, as he/she sees fit, delegate executive functions to the Cabinet, Cabinet Committees or Boards, individual Cabinet Members, area committees or Officers, or arrange for the delivery of executive functions through joint arrangements. Details of such delegations are contained in Sections 7-9 of Part 3 of this Constitution and the executive arrangements of the Council shall comply with the Executive Procedure Rules at Part 4D of this Constitution.

7.2 Leader of the Council

7.2.1 The Leader of the Council (the "Leader") will be a Councillor elected to the position of Leader by the Council.

7.2.2 The Council will decide on the term of office (currently 4 years or the balance of their term of office as a Councillor) of the Leader which must expire no later than the day of which the Council holds its first Annual meeting after the Leader's normal day of retirement as a Councillor unless:

i. he/she resigns from the office of Leader; or
ii. he/she is no longer a Councillor; or
iii. he/she is removed from office by resolution of the Council when a successor will be appointed

7.3 The Cabinet – appointment of the Deputy Leader of the Council and Cabinet Members

The Cabinet is made up of the Leader together with between two and nine further Councillors appointed to the Cabinet by the Leader. One of the Councillors appointed by the Leader will also be appointed as Deputy Leader of the Council (the "Deputy Leader"). The Councillors appointed by the Leader of the Council shall be known as Cabinet Members and may be allocated portfolios of responsibility by the Leader. Details of Cabinet Member portfolios are provided in Section 6 of Part 3 of this Constitution. Rules for the appointment of the Deputy Leader and Cabinet members are provided at Part 4D of the Constitution.

7.4 **Cabinet Committees, Sub-Committees and Boards and Joint Committees**

The Leader may establish Committees, Sub-Committees and Boards of the Cabinet, or Joint Committees in agreement with the Leader or Leaders of other local authority/ies and appoint such Cabinet members to serve on them as substantive or substitute members as considered appropriate. Details of such bodies established are provided at Section 7 of Part 3 of this Constitution.

7.5 **Executive Delegation and Terms of Reference**

7.5.1 The Leader determines the nature and extent of the delegation of executive functions and powers to the Cabinet, Cabinet Committees or Boards, individual Cabinet Members, area committees or Officers, or through joint arrangements, and the terms of reference of any Cabinet Committee, Board or Joint Committee established.

7.5.2 The Cabinet may delegate all or some of its powers to a Cabinet Committee or Board, an area committee or an officer. A Cabinet member may delegate all or some of their delegated powers to an area committee or an Officer. A Cabinet Committee or Board, or an individual Cabinet member holding delegated powers, may delegate all or some of their delegated powers to an area committee or an Officer

7.5.3 Details of such delegations and the terms of reference are provided at Sections 7-9 of Part 3 of this Constitution.

7.6 **Proceedings of the Cabinet**

Proceedings of the Cabinet and of Cabinet Committees, Boards and Joint Committees, and the procedures for the exercise of delegated executive powers generally, shall be undertaken in accordance with the Executive Procedure Rules and with the requirements of the Access to Information and the Budget and Policy Framework Procedure Rules set out in Parts 4B-D of this Constitution.

PART 2: ARTICLE 8 – REGULATORY AND OTHER COMMITTEES

8.1 Regulatory and other committees

The Council has currently established and appoints to the Committees set out below with terms of reference as set out in Section 4 of Part 3 of this Constitution -

- Planning Committee
- Licensing Committee and Licensing Panels
- Audit Committee
- Highway Regulation Committee
- Commons Registration Committee
- Charitable Trustee Committee
- Employment Committee
- Local Negotiating Joint Consultative Committee
- Appointments Committee
- Standards Committee
- Appeals Committee
- Independent Panel

8.2 Health and Wellbeing Board

The Council has established, pursuant to section 194 of the Health and Social Care Act 2012, a Health and Wellbeing Board with membership and terms of reference as set out in Section 4 of Part 3 of this Constitution.

PART 2: ARTICLE 9 - THE STANDARDS FRAMEWORK

9.1 Oldham Council is committed to the highest standards of behaviour and has established Codes and procedures to maintain these standards.

9.2 The Council is committed to complying with the seven Principles of Public Life -

Selflessness - Holders of public office should act solely in terms of the public interest.

Integrity - Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity - Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability - Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness - Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty - Holders of public office should be truthful.

Leadership - Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

9.3 **Code of Conduct for Members of the Council**

9.3.1 The Council expects Members and co-opted Members of the Council to behave according to the highest standards of personal conduct in everything they do as a Member. To promote and maintain these high standards the Council has adopted a Code of Conduct for Members, in line with its obligations under section 27(2) of the Localism Act 2011. This Code of Conduct is contained at Part 5A of this Constitution.

9.3.2 Members must provide notice to the Monitoring Officer of their disclosable pecuniary interests as required by the Localism Act 2011 and declare as

appropriate other Registerable Interests and non-Registerable Interests as required by the Code. These interests are compiled in a Register of Interests that is open for public inspection.

9.3.3 Members must not participate in the business of the Council where they have a disclosable pecuniary interest or certain other interest as outlined in the Code.

9.4 Oversight of the Code of Conduct for Members

9.4.1 Complaints Procedure

The Council has adopted a procedure whereby a person who feels that a Member or a Co-opted Member has breached the Code of Conduct may submit a complaint to the Monitoring Officer.

9.4.2 Standards Committee

The Council has established a Standards Committee with the principal purposes of promoting and maintaining high standards of conduct by Members and Co-opted Members, of assisting those Members to observe the Members' Code of Conduct; and to advise the Council on the adoption or revision of the Members' Code of Conduct. The Committee comprises Council Members, Independent Persons, and Members of the Parish Councils within the Borough. The terms of reference for the Standards Committee are included within Section 4 of Part 3 of this Constitution.

9.4.3 Monitoring Officer

The Monitoring Officer is the Officer of the Council who oversees the arrangements that the Council must have in place, in accordance with sections 28(6) and (7) of the Localism Act 2011, under which allegations that a Member or co-opted Member of the Council has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations.

9.4.4 Independent Persons

An Independent Person is a person appointed by the Council under Section 28(7) of the Localism Act 2011 whose views must be sought by the Council before it takes a decision on an allegation which has been investigated and whose views can be sought by the Council at any other stage or by a Member or Co-opted Member against whom an allegation has been made.

9.5 Code of Conduct for Officers

9.5.1 The Council and the public expect the highest standards of conduct from all employees of the Council. The Code of Conduct for Officers draws together existing laws, regulations and conditions of service to guide employees in their day-to-day work to help employees maintain and improve standards and to help protect employees from misunderstanding and unfair criticism. This Code of Conduct is contained at Part 5B of this Constitution.

9.6 Protocol for Member/Officer Working Arrangements

9.6.1 Members and Officers have separate and distinct roles within the Council. It is important, therefore, that any dealings with Members and Officers should observe reasonable standards of mutual courtesy and respect and that neither should seek to take unfair advantage of their position in any circumstances.

9.6.2 The Council has adopted this Protocol to provide guidance on Member/Officer working arrangements and it forms the basis of the Council's working arrangements, assisting Members and Officers to maintain the highest standards of integrity and propriety and to ensure that all they do is seen by others to be done properly, fairly and, where possible, openly. This Protocol is contained at Part 5C of this Constitution.

PART 2: ARTICLE 10 – DISTRICT WORKING

10.1 **Districts**

There are five District representing the different parts of the Borough as follows:-

District	Wards Covered
Central	Alexandra Coldhurst St Mary's
North	Crompton Royton North Royton South Shaw
East	Saddleworth North Saddleworth South Saddleworth West and Lees St James' Waterhead
South	Failsworth East Failsworth West Hollinwood Medlock Vale
West	Chadderton Central Chadderton North Chadderton South Werneth

10.2 **District Leads**

10.2.1 The role of the District Lead is to work closely with all elected members in their district to support them in their role as strong local leaders.

10.2.2 The District Lead also plays a vital role in championing the needs of the district. They provide leadership across the district and ensure parallels exist between corporate and local priorities, and also cross-partnership priorities.

10.2.3 The role is a strategic position that requires vision and the ability to look beyond ward issues to those that affect the district as a whole. It is important

that the District Lead is able to make decisions based on district priorities which may not always align fully with ward priorities.

10.2.4 The District Lead will also need to be able to apply a systems-thinking approach, in order to recognise and influence factors that impact on the capacity to deliver positive outcomes for the communities of Oldham.

10.2.5 Deputy District Leads be appointed in the North and East Districts, recognising that they each fall into two distinct communities.

10.3 Requirements of the District Lead

The District Lead is a Councillor who will -

a) provide leadership within and beyond the district;
b) support elected members in the district in their role as local leaders;
c) engage with elected members across the district and encourage active contribution to district initiatives that take place;
d) supported by the District Team, work with the Place Leadership Board to develop the District Plan, ensuring it reflects both local and corporate priorities, and builds towards a set of shared outcomes agreements with partners;
e) champion the district as a place and represent the district in any discussions and/or negotiations at a borough level;
f) lead of any applications to the Local Improvement Fund.
g) Chair the Place Leadership Board at a local level, and relevant working groups as appropriate;
h) lead on the development of a district Community Engagement Strategy, ensuring all residents have an opportunity to contribute their ideas or concerns to the district;
i) work as appropriate with the Place Leadership Board, Executive Management Team, District Co-ordinator and District Team to plan and deliver against locally agreed priorities;
j) liaise and work with other District Leads as and when required to deliver against priorities that cross district boundaries;
k) liaise with and respond to the Chairs and Vice Chairs of the Overview and Scrutiny Committees as and when required;
l) ensure that all actions and activities of the district are carried out in a socially inclusive way, in full acknowledgement and discharge of the equality legislation pertaining to all protected characteristics, and also legislation pertaining to the environment;
m) work with the appropriate Cabinet Member to identify further opportunities for district working as appropriate;
n) be the lead member in a district for corporate campaigns and ensure the involvement of Ward Members in supporting this activity.

o) work, as appropriate, through formal and informal partnership with voluntary, private sector and other public sector interests to enhance the economic, social and environmental wellbeing of the local community;
p) support the development of a strong Voluntary, Community and Faith sector which can work with the District Team in improving the quality of life of local people and encouraging the active involvement of residents in this;
q) promote the Voluntary, Community and Faith sector as a key driver of local productivity, recognising the contribution of this sector in improving the economy and enterprise of the district;
r) champion events, festivals and celebrations across the district;
s) provide leadership in building strong cohesive communities within and beyond the district; and
t) promote equality of opportunity and eliminate discrimination.

PART 2: ARTICLE 11 – WORKING IN PARTNERSHIP

11.1 Missions of the Council

Our three missions set a clear and bold direction for Oldham Council. They reflect our commitment to creating a better future for all who live, work, and invest in Oldham. They have partnership at their heart as we share them with Pride, Progress, Partnership – the Oldham 2030 Plan. They will guide our shorter-term actions, ensuring that every step we take drives meaningful change. At the same time, they provide us with a long-term vision and a clear definition of what success looks like for Oldham. Our three missions are:

1. **Healthier, Happier Lives**: In Oldham, every individual matters. We aim to build a community where everyone has access to the care, support, and opportunities they need to live a good life. We are committed to tackling poverty, improving health and well-being, providing high-quality social care, and promoting lifelong education.

2. **Great Place to Live**: We know Oldham is a place where people love to live, and we're committed to building on that pride by providing more affordable, quality homes, improving public spaces, and creating a strong local economy with vibrant communities that get on well.

3. **Green and Growing**: We will make Oldham a place where economic growth benefits all residents, creating opportunities for businesses to succeed while ensuring our community and environment thrive. By attracting new investment, supporting local businesses, and leading in green technologies, we will generate quality job opportunities and equip people with the skills they need to succeed.

The three missions form the basis of the Council's Corporate Plan. The Corporate Plan is the Council's main strategy document. Its primary purpose is to set out our story of place and our priorities for Oldham - what we are doing and why we are doing it.

11.2 The Leading Oldham Partnership

11.2.1 A range of partners have come together to develop the vision in the Oldham Plan that "**Together, we will create a borough where everyone can thrive, and no one is left behind".** The Oldham Plan is a blueprint for the borough, setting out the collective vision for Oldham. The Plan provides a shared roadmap for addressing key challenges such as health inequalities, housing, economic growth, and environmental sustainability.

11.2.2 The Leading Oldham Partnership is where Elected Members, public sector Chief Executives, and business, community and voluntary sector leaders responsible for leading Oldham at the Borough level, across Greater

Manchester, and beyond.

11.2.3 The Board is able to hold all parts of the Leading Oldham Partnership to account for the delivery of the shared objectives and ambitions .

11.2.4 The Board is further supported by a range of other partnerships and networks of the Leading Oldham Partnership, be they statutory or voluntary, all working to bring the benefits of collaborative and co-operative working. These include, for example, the Community Safety Partnership, the Oldham Housing Investment Partnership, and the Adult and Children's Safeguarding Boards.

11.2.5 At Greater Manchester level, the Partnership focuses efforts and energy to help drive Greater Manchester forward as a whole, whilst enabling local solutions and ensuring Oldham benefits from any collective Greater Manchester-wide growth and reform.

PART 2: ARTICLE 12 – JOINT ARRANGEMENTS

12.1 General Power of Competence

The Council or the Cabinet may, subject to restrictions and limitations, exercise its general power of competence to make joint arrangements.

12.2 Joint arrangements

12.2.1 The Council may establish joint arrangements with one or more local authorities and/or their executives 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.

12.2.2 The Leader may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

12.2.3 In most circumstances, the Leader may only appoint executive members to a joint committee and those members need not reflect the political composition of the local Council as a whole. However, the Leader may appoint members to a joint committee from outside the Cabinet where the joint committee has functions for only part of the area of the Council, and that area is smaller than two-fifths of the Council by area or population. In such cases, the Leader may appoint to the joint committee any Councillor who is a member for a ward which is wholly or partly contained within the area (and for clarification, the Leader may appoint members to a joint committee, outside of the Cabinet, where the joint committee is discharging a function in relation to five or more authorities).

12.2.4 Details of any joint arrangements including any delegations to joint committees will be found in Section 12 to Part 3 of this Constitution.

12.3 Access to information

12.3.1 If the joint committee has been established by the Leader to exercise executive functions and all the members of the joint committee are members of the Executive in each of the participating authorities, the Access to Information Procedure Rules at Part 4B of this Constitution as they apply to the Cabinet will apply to the joint committee.

12.3.2 In all other cases, the Access to Information Procedure Rules as they apply to Council Committees will apply.

12.4 **Delegation to and from other local authorities**

12.4.1 The Council may delegate non-executive functions to another local Council or, in certain circumstances, the Cabinet of another local Council. The Council may delegate functions to a Joint Committee or body where joint arrangements with one or more local authorities have been entered into to promote the economic, social or environmental well-being of its area.

12.4.2 The Leader may delegate executive functions to another local Council or the executive of another local Council in certain circumstances.

12.4.3 The decision whether or not to accept a non-executive delegation from another local Council shall be reserved to the Council meeting.

12.5 **Joint Arrangements with other Public Bodies**

Under Section 75 National Health Service Act 2006, Section 10 of the Children Act 2004 and the Health and Social Care Act 2012, local authorities, national health bodies and a number of other bodies have powers to delegate the exercise of some of their functions to each other and to co-operate in the exercise of their functions.

12.6 **Contracting Out**

The Council or the Cabinet 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 contacting principles, provided there is no delegation of the Council's discretionary decision making.

PART 2: ARTICLE 13 - OFFICERS

13.1 **Management structure**

13.1.1 **General**
The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

13.1.2 **Chief and Deputy Chief Officers**.
The Council has engaged persons for the following posts, who will be designated Chief Officers:

Post	Functions and areas of responsibility
a) Chief Executive	Statutory Head of Paid Service; Overall corporate management and operational responsibility (including overall management responsibility for all officers); Provision of professional advice to all parties in the decision making process; Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions; Representing the Council on partnership and external bodies (as required by statute or the Council); Community leadership; Corporate resources
b) Executive Director of Place (Deputy Chief Executive)	Deputising for the Chief Executive Managing the areas of Environmental Services, Economy and Communities
c) Executive Director of Health and Care (Deputy Chief Executive)	Deputising for the Chief Executive Managing the areas of adults health and social care
d)Executive Director of Children and Young People	Statutory role of Director of Children's Services Managing the areas of childrens social care, early help, education and skills
e)Executive Director of Resources	Managing corporate services of the Council.

13.1.3 For the purposes of the Employmentt Procedure Rules at Part 4H of this Constitution, the following posts are also regarded as Chief Officers –

- Director of Legal (Monitoring Officer)
- Director of Children's Social Care and Early Help
- Director of Education and Skills
- Director of Finance
- Director of Digital
- Director of Adult Social Care
- Director of Public Health
- Director of Communities
- Director of Environment
- Director of Growth

13.1.4 For the purposes of the Employment Procedure Rules at Part 4H of this Constitution, postholders who report directly to, or are accountable to, a Chief Officer (but excluding secretarial, clerical and support staff) as defined by either Procedure Rule 13.1.2 or 13.1.3 above are regarded as Deputy Chief Officers.

13.1.5 **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 7 of this Constitution.

13.2 **Statutory Officers**

The Council have designated the following Officers to fulfil statutory posts -

Officers	**Statutory Officer Post**
Chief Executive	Head of Paid Service
Director of Legal	Monitoring Officer
Director of Finance	Chief Finance Officer

Such posts will have the functions described below.

13.3 **Functions of the Head of Paid Service**

1. **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.

2. **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.

13.4 Functions of the Monitoring Officer

1. **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 consultation by members, staff and the public. The Monitoring Officer is authorised to reflect approved changes to the Council's structure and, where necessary to amend the Constitution to reflect changes to the Scheme of Delegation.
2. **Ensuring lawfulness and fairness of decision making**. After consulting with the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will report to the Council or to the Cabinet 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.
3. **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.
4. **Conducting investigations**. The Monitoring Officer will assess complaints or refer them to the standards sub-committee and if an investigation is required will commission such an investigation. The Monitoring Officer may then report the matter for consideration to the standards sub-committee for a hearing if required.
5. **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 publicly available in accordance with legal requirements.
6. **Advising whether executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether executive decisions are in accordance with the Budget and Policy framework.
7. **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.
8. **Restrictions on posts**. The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

13.5 Functions of the Chief Finance Officer

1. **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 Council or to the Cabinet in

relation to an executive function and to 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 or deficiency or if the Council is about to enter an item of account unlawfully.

2. **Administration of financial affairs**. The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
3. **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.
4. **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.
5. **Give financial information**. The Chief Finance Officer will provide financial information to the media, members of the public and the community.
6. **Restriction on posts**. The Chief Finance Officer must be a qualified accountant and cannot be the Monitoring Officer.

13.6 **Duty to provide sufficient resources to the Monitoring Officer and the Chief Finance Officer**

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

13.7 **Discharge of Functions of Director of Public Health**

The Director of Public Health has statutory responsibility for writing the annual report on the health of the local population.

13.8 **Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

13.9 **Employment**

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

PART 2: ARTICLE 14 – DECISION MAKING

14.1 Council and Executive Decisions

14.1.1 Council Decisions

Council Decisions are made in relation to Council functions as defined by the Local Government Act 2000, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended, and the Local Choice Functions determined as Council functions and detailed at Part 3 (Responsibility for Functions) of this Constitution, and to matters that are referred to the Council by law.

14.1.2 Executive Decisions

Executive Decisions are made in relation to those functions not identified as Council functions by the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended, and in relation to the Local Choice Functions determined as executive functions and detailed at Part 3 of the Constitution.

14.2 Responsibility for Decision Making

14.2.1 The Council will determine what part of the Council or which individual has responsibility for decisions relating to those matters which are defined as Council functions. These arrangements are set out in Sections 3, 4, 9 and 12 of Part 3 of the Constitution.

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

i) the Cabinet;
ii) by a Committee of the Cabinet;
iii) by a Member of the Cabinet;
iv) by an officer of the Council;
v) by an area committee
vi) by another local authority or the executive of another local authority; or
vii) joint arrangement with one or more other Local Authorities' executives, including the establishment of a joint committee with such authorities.

14.2.3 The Monitoring Officer will maintain a register of the Delegation of Executive functions and set these out in Sections 7-9 and 12 of Part 3 of this Constitution.

14.3 Categories of decision

14.3.1 Decisions reserved to full Council.

Decisions relating to the matters listed in Section 3.1 of Part 3 of this Constitution will be made by the full Council and not delegated.

14.3.2 **Key Decisions**

A key decision is any executive decision which is likely –

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

14.3.3 An operational description of a Key Decision and the procedural arrangements for the taking of key decisions are detailed in Access to Information Procedure Rules at Part 4B of this Constitution.

14.3.4 **Principal Decisions**

A decision in relation to a Council or an Executive function which is not a key decision and which:

- results in the Authority incurring expenditure or making savings (including receipt or loss of income) over £100,000 each year; or
- is, in the opinion of the Director, of such significance that a record of the decision would ensure transparency and accountability in relation to decision making within the Authority.

14.3.5 A further consideration of Principal Decisions is contained in Section 11 to Part 3 of this Constitution and the procedural arrangements for the taking of such decisions are detailed in Access to Information Procedure Rules.

14.3.6 **Administrative Decisions**

A decision in relation to a Council or Executive function which is not a key or a principal decision and results in the Authority incurring expenditure up to £100,000. The decision must

- be within an approved budget and not in conflict with the Budget and Policy Framework or other approved policies;
- not raise new issues of policy

14.3.7 A further consideration of Administrative Decisions is contained in Section 11 to Part 3 of this Constitution and the procedural arrangements for the taking of such decisions are detailed in Access to Information Procedure Rules.

14.4 **Principles of decision making**

All decisions of the Council will be made in accordance with the following principles:

- **Proportionality** - the action must be proportionate to the desired outcome;
- **Consultation** – there will be appropriate consultation and professional advice from officers;
- All decisions will take into account the **European Convention on**

Human Rights;

- **Openness and accountability** – in all decisions there will be a presumption in favour of openness;
- There will be **clarity of aims** and desired outcomes in respect of every decision made; and
- **Options** – an explanation of what options were considered and reasons for decisions will be provided.

14.5 **Decision making by the full Council**

Subject to Article 14.8, the Council meeting will follow the Council Procedure Rules set out in Part 4A of this Constitution when considering any matter.

14.6 **Decision making by the Cabinet**

Subject to Article 14.8, the Cabinet will follow the Executive Procedures Rules set out in Part 4D of this Constitution when considering any matter.

14.7 **Recording Decisions**

All Council and Executive decisions will be recorded in accordance with the provisions of the Access to Information Procedure Rules set out in Part 4B of the Constitution.

14.8 **Considerations by Overview and Scrutiny Bodies**

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

14.9 **Decision making by other committees established by the Council**

Subject to Article 15.8, Council Committees will follow those parts of the Procedures Rules set out in Part 4 of this Constitution as apply to them.

14.10 **Decision making by Council bodies acting as tribunals**

The Council, a Councillor or an 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 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.

PART 2: ARTICLE 15 – FINANCE, CONTRACTS AND LEGAL MATTERS

15.1 Financial management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4F of this Constitution.

15.2 Contracts

All contractual arrangements entered into by the Council will comply with the Contract Procedure Rules set out in Part 4G of this Constitution.

15.3 Legal proceedings

The Borough 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 he/she considers that such action is necessary to protect the Council's interests.

15.4 Authentication of documents

15.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Borough Solicitor or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

15.4.2 Any contract with a value exceeding £100,000 shall be made in writing and must be made under the Common Seal of the Council attested by the Borough Solicitor or authorised representative officer, in accordance with the provisions of the Contract Procedure Rules. All contracts below that value will be signed in accordance with the provisions of the Contract Procedure Rules.

15.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Borough 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 Borough Solicitor should be sealed. The affixing of the Common Seal will be attested by the Borough Solicitor or some other person authorised by them.

PART 2: ARTICLE 16 – REVIEW AND REVISION OF THE CONSTITUTION

16.1 **Duty to monitor and review the constitution**

The Monitoring Officer will monitor and review the operation of the Constitution on an annual basis to ensure that the aims and principles of the Constitution are given full effect.

16.2 **Protocol for monitoring and review of Constitution by Monitoring Officer**

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:

a) observe meetings of different parts of the Member and Officer structure;
b) undertake an audit trail of a sample of decisions;
c) record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and
d) compare practices in this Council with those in other comparable authorities, or national examples of best practice.

16.3 **Changes to the Constitution**

16.3.1 **Approval**.
Changes to the Constitution will only be approved by the full Council.

16.3.2 **Amending the Constitution**.
The Monitoring Officer is authorised to make amendments to the published Constitution –

a) arising from any decision of the full Council;
b) changes made by the Leader of the Council in respect of the discharge of executive functions; and
c) incidental changes arising as a result of approved organisational change, including officer designations for the purposes of schemes of delegation.

PART 2: ARTICLE 17 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

17.1 **Suspension of the Constitution**

17.1.1 **Limit to suspension**
The Articles of this Constitution may not be suspended. Procedure Rules may only be suspended to the extent permitted by those Rules and the law.

17.1.2 **Procedure to suspend.**
A motion to suspend any rules will not be moved without notice unless at least one half of the Cabinet or Council is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1 above.

17.2 **Interpretation**

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1 above.

17.3 **Publication**

17.3.1 The Chief Executive will give a electronic copy of the current Constitution to each member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the member being elected to the Council.

17.3.2 The Chief Executive will ensure that copies are available for inspection on the Council's website and at Council Offices, Libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

17.3.3 The Chief Executive will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

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PART 3 – RESPONSIBILITY FOR FUNCTIONS

1. INTRODUCTION

1.1 Part 3 of the Constitution sets out who is responsible for the various functions of the Council. Section 9D of the Local Government Act 2000 (as amended by the Localism Act 2011) provides that all the functions of the Authority shall be functions of the Executive except in so far as they are reserved to the Council by the Local Government Act 2000, by subsequent legislation or by Regulations made under the Local Government Act 2000.

1.2 **Local Choice Functions**
There are some functions which the Council determines as either the responsibility of the Executive (and which are reserved to the Leader of the Council); or the responsibility of either the Executive or the Council, dependent upon circumstances; or the responsibility of the Council at its discretion. These are called 'Local Choice Functions'.

1.3 **Council (or 'non-executive') Functions**
These are functions which by law cannot be the responsibility of the Executive. For example, adopting the budget and policy framework can only be discharged by Council and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) sets out those functions that are Council functions and which cannot be undertaken by the Executive. In some cases the Council may delegate functions to a Committee or an Officer, and the decisions of the Council regarding delegation form the basis of the terms of reference of Council Committees and the Council (or non-executive) element of the Scheme of Delegation to Officers.

1.4 **Executive Functions**
All functions that are not Council (or 'non-executive') functions are Executive functions. These functions are reserved to the Leader of the Council who determines which decisions will be taken by the Cabinet, by a Board or Committee of the Cabinet, by an area committee, by Officers, or under joint arrangements with another authority or authorities. These delegations form the basis of the terms of reference of the Cabinet and of Cabinet Committees, Sub-Committees and Boards, the Scheme of Delegation to Individual Cabinet Members and the executive element of the Scheme of Delegation to Officers.

1.5 **Scheme of Delegation to Officers**
Officers have been given delegated authority to exercise both Council (or 'non-executive') and Executive functions by the Council and by the Leader of the Council respectively. Where permitted, functions may also be delegated to an Officer by a Council Committee or Sub-Committee or by an executive decision making body or person.

1.6 **Decision making – Principals and Processes**

Different types of decisions are defined both in law and by the Council. These differing types of decision are detailed in the Constitution, and there are both statutory and internal processes and procedures intended to ensure transparent and efficient decision making.

1.7 **Joint Arrangements**

The Council is involved in a number of joint arrangements with other local authorities or bodies. These joint arrangements may be formal, in that they may be required by law or the Council or the Leader of the Council has established them to deal with statutory functions, or informal where the Council or the Leader of the Council has chosen to enter into informal partnership with other organisations from the public, private and/or third sector.

2. LOCAL CHOICE FUNCTIONS

2.1 The Council determines whether the following functions are to be exercised by the Executive or are to be reserved as Council functions. The Leader of the Council shall determine any delegation of those functions allocated to the Executive. The Council shall determine any delegation of Council functions.

	Function	Allocation of Function	Delegation of Function
1	Function under a Local Act, other than those functions which are "not to be the responsibility of the executive" by virtue of the Regulations.	Executive	Executive Director of Place (Deputy Chief Executive) / Director for function concerned
2	The determination of an appeal against any decision by or on behalf of the authority.	Council	Appeals Committee (for clarity this does not include appeals within the terms of reference of another committee or delegated to officers under approved processes)
3.	Making arrangements for appeals against exclusion of pupils.	Executive	Director of Legal (Monitoring Officer)
4.	Making arrangements for school admission appeals.	Executive	Director of Legal (Monitoring Officer)
5.	Making arrangements for appeals by governing bodies.	Executive	Director of Legal (Monitoring Officer)
6.	Any function relating to contaminated land.	Council	Executive Director of Place (Deputy Chief Executive)

7.	The discharge of any function relating to the control of pollution or the management of air quality.	Executive	Executive Director of Place (Deputy Chief Executive)
8.	The service of an abatement notice in respect of a statutory nuisance.	Executive	Executive Director of Place (Deputy Chief Executive)
9.	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.	Executive	Executive Director of Place (Deputy Chief Executive)
10.	The inspection of the authority's area to detect statutory nuisance.	Executive	Executive Director of Place (Deputy Chief Executive)
11.	The investigation of any complaint as to the existence of a statutory nuisance.	Executive	Executive Director of Place (Deputy Chief Executive)
12.	Obtaining information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.	Council	Executive Director of Place (Deputy Chief Executive)
13.	Obtaining particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Council	Executive Director of Place (Deputy Chief Executive)/ Director of Legal (Monitoring Officer)
14.	Making agreements for the execution of highway works.	Executive	Executive Director of Place (Deputy Chief Executive)
15.	The appointment of any individual: (i) to any office other than an office in which he is employed by the authority (ii) to any body other than – • the authority • a joint committee of two or more authorities; or to any Committee or sub-committee of such a body (and revocation of such appointment)	Council/ Executive	Council for non- executive appointments, Leader of the Council for executive appointments
16.	The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.	Executive	Chief Executive/ Executive Director of Resources

3. THE COUNCIL MEETING - FUNCTIONS AND TERMS OF REFERENCE

3.1 Only the Council will undertake the following functions:

a) Approving or adopting the Budget and Policy Framework (as defined in Article 4.1 to the Constitution) and any application to the Secretary of State in respect of any Housing Land Transfer;
b) 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/not wholly in accordance with the Budget, subject to the urgency procedure contained in Budget and Policy Framework Procedure Rules;
c) Electing the Mayor and appointing the Deputy Mayor;
d) Electing and removing the Leader of the Council;
e) Establishing and determining Terms of Reference for Council Committees and the Overview and Scrutiny Committees and, unless otherwise prescribed in law, deciding on their composition and making appointments to them, including the appointment of Chairs and Vice-Chairs unless the Council determines otherwise;
f) Adopting a Scheme of Members' Allowances and appointing Independent Remuneration Panel members ;
g) Determining Mayoral and Deputy Mayoral allowances;
h) Adopting a Code of Conduct for Councillors and co-opted Members;
i) Confirming the appointment of the Head of Paid Service;
j) Confirming the dismissal of the Chief Executive, Head of Paid Service, Monitoring Officer or Chief Finance Officer;
k) Determining the primary delegation of Council (or non-executive) functions as defined in s4 and Schedule 2 of the Local Authorities (Function and Responsibilities) Regulations 2000 as amended;
l) Duty to consider the statutory reports of the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer submitted in accordance with s5A of the Local Government and Housing Act 1989 and s114B of the Local Government and Finance Act 1988 respectively;
m) Consideration of Public Interest Reports issued by the External Auditor in accordance with s24 of the Local Audit and Accountability Act 2014;
n) Receive the annual Pay Policy Statement;
o) Agree a Council Tax Reduction Scheme; and
p) All other matters which, by law, must be reserved to the Council.

3.2 Unless specifically delegated to the contrary, only the Council will undertake the following Local Choice Function –

a) The appointment of any individual:
   (i) to any office other than an office in which he is employed by the authority;
   (ii) to any body other than –
      - the authority
      - a joint committee of two or more authorities; or
      - to any Committee or sub-committee of such a body

   where such an appointment is not an executive function.

3.3 Unless specifically delegated to the contrary, only the Council will undertake the following Council (or ‘non-executive’) functions as defined in the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) –

a) Functions relating to elections –
   (i) Duty to appoint an Electoral Registration Officer;
   (ii) Power to dissolve small parish councils;
   (iii) Power to make orders for grouping parishes, dissolving groups and separating parishes from groups;
   (iv) Duty to appoint a Returning Officer for Local Government elections;
   (v) Duty to divide constituency into polling districts;
   (vi) Power to divide electoral divisions into polling districts at local government elections;
b) Functions relating to name and status of areas and individuals -
   (i) Power to change the name of the district;
   (ii) Power to change the name of a parish; and
   (iii) Power to confer title of honorary alderman or woman or to admit to be an honorary freeman or freewoman.
c) Functions relating to community governance.
d) Power to make, amend, revoke or re-enact byelaws.
e) Power to promote or oppose local or personal Bills.
f) Miscellaneous functions -
   (i) Power to make standing orders;
   (ii) Power to make standing orders as to contracts;
   (iii) Duty to make arrangements for the proper administration of financial affairs etc;
   (iv) Duty to designate Officer as head of the authority’s paid service, and to provide staff, etc;
   (v) Duty to designate Officer as the monitoring officer, and to provide staff, etc; and
   (vi) Powers relating to overview and scrutiny committees (voting rights of co-opted members).

4. RESPONSIBILITY FOR COUNCIL FUNCTIONS – COUNCIL COMMITTEES AND TERMS OF REFERENCE

4.1 Committees and Memberships

4.1.1 The Council has established the following Committees with memberships and quoracy arrangements as follows –

Committee	Membership	Quorum
Planning Committee	11 Council Members	4 Members
Licensing Committee	15 Council Members	4 Members
Audit Committee	9 Council Members	3 Members
Highway Regulation Committee	5 Council Members	3 Members
Commons Registration Committee	5 Council Members	3 Members
Charitable Trustee Committee	6 Council Members	3 Members
Employment Committee / Local Negotiating Joint Consultative Committee	7 Council Members, at least one of which must be an Executive Member.	3 Members
Appointment Committee	7 Council Members, at least one of which must be an Executive Member.	3 Members
Standards Committee	7 Council Members, 2 Parish Councillors and 4 Independent Persons	3 Members
Appeals Committee	5 Members	3 Members
Independent Panel	3 Independent Persons	3 Members
Health and Wellbeing Board	At least one Council Member appointed by the Leader of the Council; the Council's Directors of Adult Social Services, of Children's Services, and of Public Health; representative of the Integrated Care Board; a Healthwatch representative; any additional person/body the Board or the Council (subject to consultation with the Board) thinks appropriate.	One Third

The functions of Overview and Scrutiny Boards are contained in Section 5. Each Overview and Scrutiny Board will have 11 members on the committee.

4.1.2 The ability of appointed Members to serve on certain Council Committees or Panels, or on certain Sub-Committees or Panels established by those bodies, may be dependent upon the appointed Members having attended such relevant training as may be determined by the Council.

4.1.3 The Terms of Reference for each of the above Committees are as follows –

4.2. Planning Committee

4.2.1 The Planning Committee will undertake Council (or 'non-executive') functions as defined in Part A of Schedule 1 of the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) where planning applications are referred to the committee in accordance with The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 ("the 2026 Regulations").

4.2.2 For the purposes of fulfilling the 2026 Regulations, the nominated officer will be the Assistant Director for Planning and Development or, in their absence, the Director of Growth. The nominated member will be the Chair of Planning Committee or, in their absence, the Vice Chair of the Planning Committee

4.2.3 In accordance with the 2026 Regulations, all planning applications would initially be delegated to officers for a decision.

4.2.4 As per Regulation 6, "own-interest" applications may be referred to the Planning Committee for a decision where the nominated officer and nominated member agree. An "own-interest" application is one where:

a) the application is made (whether or not jointly with any other person) by or on behalf of:
   i. the authority,
   ii. a member of the authority, or
   iii. an officer of the authority, or

b) in the view of the nominated member and the nominated officer, the authority or any of its members or officers otherwise has an interest in the application.

4.2.5 In line with Regulation 5, applications that fall within Schedule 2 may also be referred to the Planning Committee for a decision, but only where the nominated officer and nominated member both agree that:

1) the proposal raises one or more significant planning matters having regard to the development plan and any other material considerations;

2) the proposal raises one or more issues of economic, social or environmental significance to the local area; or
3) the application has been made by the authority itself or an officer or member of the authority or an entity owned or controlled (whether wholly or partly) by that authority or any of its members or officers.

4.2.6 Where agreement cannot be reached by the nominated member and nominated officer, the application is to be determined by officers.

4.2.7 In accordance with Regulation 4, all applications that fall within Schedule 1 of the Regulations must be determined by an officer of the authority unless they are referred as an “own-interest” application under Regulation 6,

4.2.8 A record will be kept of the cases the nominated officer and nominated member have considered for referral to the Planning Committee, the outcome of their consideration and the reasons for their decision. This will be reported to the Planning Committee on a regular basis and made available on the council’s website.

4.2.9 Given the number of applications in the Oldham borough that fall within Schedule 2 and the number of officers employed by the council whose role has no connection to the local planning authority functions, the type of applications to be considered for referral will only include:

a) Applications for minerals or waste development that fall within Schedule 2;

b) Applications involving the provision of:
i. 20 or more dwellings; or
ii. Residential development on a site area of 1 hectare or more;

c) Applications for the provision of a building or buildings where the floor space to be created by the development is 1000 square metres or more;

d) Applications for retail, commercial, industrial or other development on a site having an area of 1 hectare or more;

e) Applications which require an environmental statement;

f) Applications that fall within Schedule 2 which are notifiable departures from the Council’s Development Plan;

g) Applications involving the Council either as applicant or land owner;

h) Applications (within Schedules 1 and 2) submitted by a Councillor, senior Council Officer (Officers on senior manager pay grade and above) or a member of staff employed within the Planning and Development service area, or by an immediate family member or partner of these persons;

i) Applications (that fall under Schedule 2) to remove or vary conditions where the relevant planning condition was agreed by the Planning Committee in addition to those recommended in the Officer’s report; and

j) Applications for Listed Building Consent where a connected planning application for the development concerned falls under categories (a) to (h) above.

On related matters, the following may also be considered by the Planning Committee:

k) Consultations from adjoining local authorities, including the Peak District National Park Authority, which fall into the categories (a) to (f) above, where officers recommend that the Council should raise an objection is raised to the proposed development; and

l) The nomination of a Member of the Planning Committee to represent the Council at any subsequent hearing or inquiry where the decision of the Committee was made contrary to Officer advice.

4.3 Licensing Committee

4.3.1 The Licensing Committee will undertake Council (or 'non-executive') functions as defined in Paragraph B to Schedule 1 of the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) to the extent of –

a) Functions under the Licensing Act 2003

(i) Determining applications for, full variations and transfers of Club Premises Certificates (Alcohol and Entertainment) and Premises Licences (Alcohol, Entertainment and Late Night Refreshment) or provisional statements or re-instatement of licence where relevant representations are received and are not withdrawn;

(ii) Determining Reviews and Summary Reviews of Club Premises Certificates and Premises Licences unless all parties reach agreement and a hearing is dispensed with;

(iii) Making the decision to object to a Club Premises Certificate, Premises Licence or any other relevant application under the Act where the local authority is a consultee and not the lead authority;

(iv) Withdrawal of a Club Premises Certificate (Alcohol and Entertainment) where the club ceases to be a qualifying club;

(v) Determining applications for new Personal Licences (Alcohol) where relevant representations are made and not withdrawn;

(vi) Determining reviews of Personal Licences;

(vii) Determining applications to vary a Designated Premises Supervisor where a relevant representation is received;

(viii) Determining applications for an Interim Authority where a relevant representation is received;

(ix) Determining the Service of a Notice for a Temporary Event Notice where a relevant representation is received.

b) Functions under the Gambling Act 2005

(i) Determining applications for, variations and transfers of Adult Gaming Centre, Betting, Bingo, Family Entertainment Centre and Track Betting Premises Licences or provisional statements or re-instatement of licence, where relevant representations are received and not withdrawn;

(ii) Determining applications for, full variations and transfers of Club Premises Certificates (alcohol and entertainment) or provisional statements or re-instatement of licence, where relevant representations are received and not withdrawn;

(iii) Reviewing Adult Gaming Centre, Betting, Bingo, Family Entertainment
Centre and Track Betting Premises Licences and Club premises Certificates (alcohol and entertainment) unless all parties reach agreement and a hearing is dispensed with;

(iv) Decision to object to Adult Gaming Centre, Betting, Bingo and Family Entertainment Centre Premises Licence applications where the local authority is a consultee and not the lead Authority;

(v) Determining applications and renewals of Club Gaming and Club Gaming Machines Permits where relevant representations are received;

(vi) Withdrawal of a Club Premises Certificate (alcohol and entertainment) where the club ceases to be a qualifying club;

(vii) Cancellation of Club Gaming Permits;

(viii) Cancellation or removal of authorisation for a Licensed Premises Gaming Machine permit;

(ix) Determination of a representation with regard to an Occasional Use Notice (gambling) or a Temporary Use Notice (gambling); (x) Revocation of a Small Society Lotteries registration.

c) Functions under the Local Government (Miscellaneous Provisions) Act 1976/Town Police Clauses Act 1847 (as amended)

(i) Determining, where so referred by the relevant Officer, applications for or renewal of a Hackney Carriage/Private Hire Driver's Licence where convictions, cautions, warnings, ASBOs, bind-overs or other information is disclosed in line with the Council's guidelines;

(ii) Determining reviews of Hackney Carriage/Private Hire Driver's Licences, other than suspension/revocation of licences in emergency or urgent circumstances (related to offences, investigations and conduct) pending review;

(iii) Determining, where so referred by the relevant Officer, applications and renewal applications for a Private Hire Operator's Licence where unspent convictions are disclosed which would deem the applicant to not be a fit and proper person or as otherwise considered appropriate by the relevant Officer;

(iv) Determining reviews of Private Hire Operators Licences;
(v) Determining, where so referred by the relevant Officer, applications for or renewal of a Hackney Carriage/Private Hire Vehicle licence;
(vi) Determining reviews of Hackney Carriage/Private Hire vehicle licences.

d) Functions under the Local Government (Miscellaneous Provisions) Act 1982

(i) Determining new applications for a Sex Shop/Cinema Licence;
(ii) Determining Renewal, Variations or Transfer of Sex Shop/Cinema Licence where relevant representations are received and not withdrawn;
(iii) Determining all Licence matters (other than Reviews) in relation to Sex Establishment Licenses where relevant representations are received and not withdrawn;
(iv) Determining Reviews of Sex Establishment Licence unless agreement has been reached by parties;
(v) Determining refusals or revocations of Street Trading Licences (with the exception of daily permissions).

e) any further functions relating to licensing, registration or a related permission within Paragraph B and more generally within Schedule 1, <u>except</u> for
1. the grant, renewal, refusal, variation, suspension, cancellation or revocation of any licence, registration or permission; and
2. such matters specifically delegated to another Committee or Panel.

4.3.2 The Licensing Committee will undertake such functions as may be specifically reserved to the Committee under the Licensing Act 2003 and the Gambling Act 2005.

4.3.3 The Licensing Committee may, to the extent permitted in law and after it has consulted with such parties as the law may require and/or whom it considers to be appropriate, establish conditions governing the administration of licensing matters, the conduct and behaviour of licence holders and, for technical requirements and specifications, licenced premises and vehicles.

4.3.4 The Licensing Committee may, from time-to-time, receive reports on the cultural, economic and tourism impact of its work and, as required by law or as it considers appropriate, make reports of its activity to other Council or Executive bodies. (For clarification, the Licensing Authority Policy Statement under Section 349 of the Gambling Act 2005 and the Licensing Policy Statement, under the Licensing Act 2003, are the Policy Framework documents, which require to go to Full Council.)

4.3.5 Licensing Panel

The Licensing Committee shall, as required by the Licensing Act 2003 and the Gambling Act 2005, establish a Sub-Committee or Panel to deal with such matters specified by that legislation and other matters as may be referred to that Sub Committee or Panel by the relevant Officer, the Committee or the Council, including –

a) Licensing Act 2003 – such matters as referred to at 4.3.1(a)(i, ii, iv-ix) of the Licensing Committee terms of reference;
b) Gambling Act 2005 - such matters as referred to at 4.3.1(b)(i-iii, v-x) of the Licensing Committee terms of reference; and
c) Local Government (Miscellaneous Provisions) Act 1982 – such matters as referred to at 4.3.1(d)(i-v) of the Licensing Committee terms of reference.

The Licensing Panel shall comprise not less than three Elected Members drawn from Members of the Licensing Committee. The quorum for a Licensing Panel will be three Members. The Committee may establish more than one Licensing Panel and the membership of the Panels may be rotated as necessary amongst Members of the Committee.

4.3.6 Licensing Driver Panel

The Licensing Committee shall establish a Sub-Committee or Panel to deal with such matters as referred to at 4.3.1(c) of the Licensing Committee terms of reference related to Local Government (Miscellaneous Provisions) Act 1976/Town Police Clauses Act 1847 (as amended) as may be referred to the Panel by the relevant Officer.

The Licensing Driver Panel shall comprise seven Elected Members drawn from Members of the Licensing Committee. The quorum for a Licensing Driver Panel will be three Members.

4.4 Audit Committee

4.4.1 The Audit Committee will undertake the following Council (or 'non-executive') function as defined in Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) –

a) Duty to approve the authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be).

4.4.2 The Audit Committee shall, having regard to the CIPFA 'audit committee' guidance. In this regard it will:–

a) be responsible for oversight of the Council's Internal Audit arrangements and will;
   - (i) approve the Internal Audit Charter, the Annual Audit Plan and performance criteria for the Internal Audit Service;
   - (ii) review summary findings and the main issues arising from internal audit reports and seek assurance that management action has been taken where necessary;
   - (iii) review and agree any improvements to the effectiveness of the antifraud and corruption arrangements throughout the authority;
   - (iv) consider the annual report from the Chief Internal Auditor;
   - (v) review the activities, processes and procedures of the Council having regard to the demonstration of an economic, efficient and effective use of resources and the delivery of Value for Money to Council Tax payers and to review and agree the Annual Governance Statement;
   - (vi) review the effectiveness of the system of Internal Audit on an annual basis as per statutory requirements and the outcome of the review of compliance with Public Sector Internal Audit Standards.
   - (vii) Oversee the implementation of any recommended improvements where appropriate

a) be responsible for oversight of the Council's relationship with the External Auditor, including consideration of
   - (i) the External Audit Plan of Work;
   - (ii) the external auditor's Audit Completion Report;
   - (iii) relevant reports issued by the External Auditor (with the exception of Public Interest reports and Statutory Recommendation reports made under Section 24 Schedule 7 of the Local Audit and Accountability Act 2014); and
   - (iv) issues arising from the audit of the Annual Statement of Accounts.
   - (v) Independent reviews undertaken by the Financial Reporting Council

b) review Financial Procedure Rules and Contract Procedure Rules and make recommendations to the Council as to any changes considered necessary to those documents and procedures.

c) undertake the following activities in respect of corporate governance –

(i) approve the local code of corporate governance;
(ii) assess the effectiveness of the authority's corporate governance arrangements;
(iii) review the Annual Governance Statement and the progress made by the Council to address issues identified as risks when the financial statements are prepared;
(iv) liaise, as necessary, with the Standards Committee on any matter(s) relating to the Codes of Conduct for both Members and Officers;
(v) review Partnership and Project Governance within the Council;
(vi) monitor compliance with data protection legislation;
(vii) review the annual Treasury Management Strategy and policies and procedures and make recommendations to the responsible body; and
(viii) review Treasury Management reports and make recommendations to the responsible body including update/changes to procedures.

4.4.3 The Audit Committee shall undertake the following activities in respect of Risk Management –

a) assess the effectiveness of the Authority's Risk Management arrangements;
b) review progress on the implementation of Risk Management arrangements throughout the authority; and
c) consider the Corporate Risk Register on a regular basis to review the level of risk being faced by the Authority, review the progress made by the Council to address the risks identified to minimize the financial, operational and reputational impact to the Council
d) consider the adequacy of resources available to manage the financial impact of a failure in risk management.

4.4.4 The Audit Committee shall undertake the following activities in respect of Information Governance.

a. Assess the effectiveness of Information Governance policies and procedures
b. Receive updates on key issues from the Council's Senior Information Risk Owner

Highway Regulation Committee

4.5.1 The Highway Regulation Committee will undertake the following Council (or 'nonexecutive') functions as defined in Part 1 of Paragraph I to Schedule 1 of the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) –

a) Power to create footpath, bridleway or restricted byway by agreement
b) Power to create footpaths, bridleways and restricted byways
c) Power to stop up footpaths, bridleways and restricted byways under Section 118 Highways Act 1980
d) Power to determine application for public path extinguishment order
e) Power to make a rail crossing extinguishment order
f) Power to make a special extinguishment order
g) Power to divert footpaths, bridleways and byways under Section 119 Highways Act 1980
h) Power to make a public path diversion order
i) Power to make a rail crossing diversion order
j) Power to make a special diversion order
k) Power to require applicant for order to enter into agreement under Section 119C Highways Act 1980
l) Power to make an SSSI diversion order
m) Power to decline to determine certain applications under Section 121C Highways Act 1980
n) Power to apply for variation of order under section 130B Highways Act 1980
o) Power to extinguish certain public rights of way under Section 32 Acquisition of Land Act 1981
p) Power to make a modification order
q) Power to include modifications in other orders
r) Power to prepare map and statement by way of consolidation of definitive map and statement
s) Power to designate footpath as cycle track
t) Power to extinguish public right of way over land acquired for clearance
u) Power to authorise stopping-up or diversion of footpath bridleway or restricted byway under Section 257 Town and County Planning Act 1990
v) Power to extinguish public rights of way over land held for planning purposes
w) Power to enter into agreements with respect to means of access
x) Power to provide access in absence of agreement under Section 37 Countryside and Rights of Way Act 2000

4.5.2 The Highway Regulation Committee shall also consider written representations in respect of the following matters and make recommendations to the Executive Director of Place (Deputy Chief Executive) –

a) Traffic Regulation Orders
b) Public Space Protection Orders.

4.5.3 Petitioner Panel

The Highway Regulation Committee will meet as the Petitioner Panel for the purposes of the Petitions Protocol at Part 5 of the Constitution.

4.6 Commons Registration Committee

4.6.1 The Commons Registration Committee will undertake the following Council (or 'non-executive') function as defined in the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) –

a) To determine applications to:
   (i) register common land or town or village greens;
   (ii) amend or vary the register of common land;
   (iii) amend or vary the register of town or village greens; which the Director of Legal (Monitoring Officer) confirms have been duly made.

4.7 Charitable Trust Committee

4.7.1 The Charitable Trust Committee will discharge the functions of the Council where the Council acts as Trustee of –

a) Public Open Space of Garden - Jubilee Gardens
b) Werneth Park
c) Sandy's Recreation
d) Oldham Town Lands
e) Playing Field and Recreation Ground
f) Bardsley War Memorial
g) Clayton Playing Fields
h) William Mullins Legacy Fund
i) Snipe Clough
j) Ebenezer Particular Baptist Church Grants
k) The Charles and Mary A Ward Recreation Ground
l) Edward Street Gardens
m) The North Moor Playgrounds
n) Top O'th' Edge Recreation Ground
o) Ellen Ludlam for an Open Space or Park
p) King George's Field Shaw (Wren's Nest)
q) Werneth Youth Centre
r) Moorgate Quarry
s) Lyceum
t) Land @ Royton (in front of Our Lady's)
u) Bishop's Park, Ripponden Road, Oldham
v) 439 Middleton Road, Chadderton
w) Failsworth Trust

and any further or future Trusts or bequests or arrangements where the Council is identified as the sole Trustee, including the consideration of matters where there is a conflict or potential conflict between the Council's interests and those

of the beneficiaries of the charitable trusts.

4.7.2 To seek independent advice in order to make decisions as and when there is a conflict or potential conflict of interests.

4.8 Employment Committee

4.8.1 The Employment Committee will, in pursuance of the Council or 'non-executive' function relating to the power to appoint staff, (except Chief and Deputy Chief Officers which is reserved to the Appointments Committee) and terms on which they hold office (including procedures for their dismissal) as defined in Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended), with reference to s112 of the Local Government Act 1972 –

(a) Determine all local terms and conditions matters which are referred to them by the Chief Executive after consideration by the Local Negotiating Joint Consultative Committee.

(b) Determine all matters related to the Council's Reward Strategy.

4.8.2 The Employment Committee shall be consulted on the Council's Workforce Strategy.

4.8.3. The Employment Committee has the function of the Local Negotiating Joint Committee and members of the Employment Committee will be council representatives on the Local Negotiating Joint Consultative Committee.

4.8.3 The Employment Committee will establish a Sub-Committee to consider Stage 1 hearings under the Chief Executive Grievance Procedure.

4.8.4 The Employment Committee will establish a Sub-Committee (the 'Disputes Committee') with full delegated powers of the Council and the Executive (through a delegation from the Leader of the Council to the Executive Member(s) of the Disputes Committee) to resolve declared collective disputes.

4.8.5 The Employment Committee will establish a Sub-Committee (the 'Investigation and Disciplinary Committee with full delegated powers of the Council to, pursuant to Schedule 1 of the Local Authorities (Standing Orders) Regulations 2001 and subject to the requirements of the Council's Employment Procedure Rule, –

(a) Make recommendations to Council as to the dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer;

(b) Take disciplinary action short of dismissal against the Head of Paid Service, Monitoring Officer and Chief Finance Officer;

(c) To suspend and keep under review the suspension of the Head of Paid Service, Monitoring Officer and Chief Finance Officer (other than in emergency situations requiring immediate suspension);

(d) To take disciplinary action up to and including dismissal against Chief Officers (as defined by the Local Government and Housing Act 1989 but with the exception of the Monitoring Officer and Chief Finance Officer);

(e) To take disciplinary action up to and including dismissal against such Deputy Chief Officers (as defined by the Local Government and Housing Act 1989) as determined by the Appointments Committee.

Employment Committee Sub-Committees

a) The Sub-Committee established to consider Stage 1 hearings under the Chief Executive Grievance Procedure shall comprise three or five Members on a politically balanced basis, it being noted that involvement at this stage might exclude those Members from involvement in later stages or processes should the matter progress;
b) The Sub-Committee established to act as the Dispute Committee shall comprise five members, one of whom must be an executive member with powers to act, on a politically balanced basis;
c) The Sub-Committee established to act as the Investigation and Disciplinary Committee shall comprise three members, one of who must be an executive member, on a politically balanced basis.

4.9 Appointments Committee

4.9.1 The Appointments Committee shall, pursuant to Schedule 1 of the Local Authorities (Standing Orders) Regulations 2001 and subject to the requirements of the Council's Employment Procedure Rules –

4.8.7 Agree to the recruitment to posts of Chief Officer and the statement specifying the duties of the post, any qualifications, or qualities to be sought in the person to be appointed, and arrangements for the post to be advertised.

4.8.8 Determine whether recruitment to individual posts of Deputy Chief Officer or the discipline of individual Deputy Chief Officer postholders is to be undertaken either by elected Members or by or on behalf of the Head of Paid Service;

4.8.9 Agree to the recruitment to such posts of Deputy Chief Officer as being subject to recruitment by elected Members, the statement specifying the duties of the post, any qualifications or qualities to be sought in the person to be appointed, and arrangements for the post to be advertised;

4.8.10 a) Longlist, shortlist and interview for the post of Head of Paid Service/Chief Executive and recommend an appointment to Council;

b) Longlist, shortlist, interview and appoint to the posts of Chief Officer (as defined by s2 of the Local Government and Housing Act 1989);

c) Longlist, shortlist, interview and appoint to such posts of Deputy Chief Officer (as defined by s2 of the Local Government and Housing Act 1989) as determined by the committee.

d) Power to appoint Chief Officers and Deputy Chief Officers staff, and to determine

the terms and conditions.

4.8.11 The Appointments Committee will be the 'deciding committee' for the purposes of JNC Chief Officers and the making of representations prior to any potential redundancy situation.

4.8.12 To approve significant proposed changes on matters relating to Chief Officer posts including any senior management restructure at Chief Officer level relating to terms and conditions.

4.10 Standards Committee

4.10.1 The Standards Committee supports the Council in pursuance of the duties of the Council under Chapter 7 of the Localism Act 2011 –

a) the promotion and maintenance of high standards of conduct by Councillors, co-opted members, church and parent governor representatives and independent members;
b) assisting Councillors, co-opted members and church and parent governor representatives and independent members to observe the Members' Code of Conduct;
c) advising the Council on the adoption or revision of the Members' Code of Conduct and responses to consultation documents;
d) monitoring the operation of the Members' Code of Conduct;
e) advising, training or arranging to train Councillors, co-opted members, church and parent governor representatives and independent members on matters relating to the Members' Code of Conduct;
f) dealing with any reports from the Monitoring Officer;
g) dealing with any complaints in line with the "Arrangements for dealing with complaints about the Code of Conduct for Members" [The standards subcommittee will consider hearings and referred assessments (the composition of the sub-committee is such Council Members from the Standards Committee as determined (currently five), one independent person and one parish/councillor where the matter relates to a parish council complaint)]; and
h) the exercise of (a) to (g) above in relation to Parish Councils wholly or mainly in the Borough and the members of those Parish Councils.
i) Granting dispensations under Section 33 of the Localism Act 2011. (Standards Sub-Committee considers referred assessments and any hearings under the Arrangements for dealing with complaints against elected Members and may impose sanctions, as detailed in the Arrangements).

4.11 Appeals Committee

4.11.1 In accordance with Section 2 (Local Choice Functions) of this Part, unless otherwise provided for in legislation, to hear and determine appeals in accordance with relevant legislation and guidance including:

- employment appeals;
- aids and adaptations appeals;
- home to school transport appeals; and
- terminations of tenancy at will.

4.11.2 To hear Stage 2 hearings under the Chief Executive Grievance Procedure.

4.12 Independent Panel

4.12.1 The Independent Panel will discharge the following function in pursuance of the duties of the Council under s2 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 –

a) To advise the Authority on the matters relating to the dismissal of relevant Officers of the Authority.

4.13 Health and Wellbeing Board

1. To assess the health needs of the local population and to prepare and publish the statutory Joint Strategic Needs Assessment (JSNA) in accordance with s196 of the Health and Social Care Act 2012;
2. To prepare and publish the Borough's Health and Wellbeing Strategy [the Oldham Locality Plan] in accordance with s196 of the Health and Social Care Act 2012;
3. To approve submission of the Better Care Fund Plan to NHS England;
4. To highlight and oversee action to address the health inequalities existing in the Borough, encouraging those persons and organisations holding responsibility for the commissioning or provision of public services in the Borough to work together in an integrated and/or partnership manner for the benefit of the local population; 5. To ensure that the Council complies with its duties to improve public health as set out in Sections 2B and 111 of the National Health Act 2006 as amended;
6. To receive and oversee plans to protect and improve the health of the local population

7. To be consulted by the GM Integrated Commissioning Board and/or the Locality Board in respect of those documents and plans detailed at s14Z of the National Health Service Act 2006 (as amended)
8. To receive those documents and plans from the Integrated Commissioning Board and/or the Locality Board as detailed at s14Z of the National Health Service Act 2006 (as amended)
9. To assess the need for pharmaceutical services in the Borough area and publish a Pharmaceutical Needs Assessment and any revised Assessment, pursuant to s128A of the NHS Act 2006 (as amended).
10. To undertake such oversight of local safeguarding arrangements as the Board considers appropriate and necessary; 11.To undertake, jointly with the Bury and Rochdale Health and Wellbeing Boards, such oversight of the Bury, Oldham and Rochdale Child Death Oversight Panel as the Board considers appropriate and necessary.

5. OVERVIEW AND SCRUTINY COMMITTEES

5.1 Committees and Memberships

5.1.1 The Council has established the following Overview and Scrutiny Committees with memberships and quoracy arrangements as follows -

Committee	Membership	Quorum
The Children and Young People Scrutiny Board	11 Non-Executive Council Members	3 Members
The Adults Social Care and Health Scrutiny Board	11 Non-Executive Council Members	3 Members
The Place, Economic Growth and Environment Scrutiny Board	11 Non-Executive Council Members	3 Members
The Governance, Strategy and Resources Scrutiny Board	11 Non-Executive Council Members	3 Members

5.1.2 There are four co-opted members comprising two Church representative and two parent governor representatives who may speak and vote at an Overview and Scrutiny Committee only when education matters are being considered.

5.1.3 The Terms of Reference for each of the above Committees are as follows.

The Children and Young People Scrutiny Board

The Children and Young People Scrutiny Board will look at the how the Council fulfils its strategic priority of A great start and skills for life:

This strategic outcome aims to:

- increasing the number of quality school and college places for Oldham's young people,
- expanding youth activities outside of school,
- improving post-16 education and training, so everyone has options to help them increase their skills and knowledge.

Areas covered by the Children and Young People Scrutiny Board in scrutinising how the Council meets this strategic outcome could include:

- Educational achievement
- School performance
- Healthy lifestyles
- Youth service
- Looked after children
- Early Help
- Children's Social Care
- Child Protection
- School Attendance and Exclusions
- School leavers' progression to further education and training
- Healthy schools
- Take-up of sporting and cultural opportunities
- Increased involvement of young people in developing services
- Education, employment and training for care leavers
- Children's Centres
- Young people's fear of crime
- Youth Offending
- Freedom from poverty
- Youth Justice Plan
- Children's and Young People Strategic Plan
- HE provision including Oldham College and UCO

The Board will also include Co-opted Members Voting and representation from The Youth Council.

Co-opted Members (Voting):

Roman Catholic representative
Church of England representative
Parent Governor representative (Primary)
Parent Governor representative (Special)Parent Governor representative (Secondary)

Co-opted Members non-voting

Teacher representatives
Early Years Development and Childcare representative
Youth Work representative

The Adult Social Care and Health Scrutiny Board

The Adult Social Care and Health Board will look at the how the Council fulfils its strategic priority of Healthy, safe and well supported residents Looking after our most vulnerable residents, keeping people safe and healthy are crucial responsibilities of any local authority focusing on services for adults and public health services to monitor progress towards improving health, lifestyles and quality of care across the Borough; and providing oversight of integration and partnership working within and between the council and health bodies. The Board will also oversee the active lifestyle related functions and activity across the Borough. The Board will review and scrutinise the commissioning and delivery of local health and social care services in Oldham to ensure reduced health inequalities, access to services and the best outcomes for local people.

The Board will discharge its statutory duties to:

- the review and scrutiny of any matter relating to the planning, provision and operation of the health service in the Council's area.
- the making of reports and recommendations to relevant NHS bodies and health service providers.
- responding to proposals and consultations from NHS bodies in respect of substantial variations in service provision and any other major consultation exercises.
- referral of comments and recommendations on proposals referred to the Committee by a relevant NHS body or relevant service provider to the Secretary of State if considered necessary; and
- all matters relating to Healthwatch.

Areas covered by the Adults Social Care and Health Scrutiny Board in scrutinising how the Council meets this strategic outcome could include:

- Adult Social Care
- Adult Safeguarding
- Public Health
- Integrated Care
- All Health related matters including Children's Health
- Scrutiny of NHS and NHS providers including NCA
- S.75 arrangements
- GP services
- Health and Wellbeing Board, including the development, implementation, review and monitoring of the Joint Strategic Needs Assessment and the Health and Wellbeing Strategy.
- Adult and Health Services Budget Outturn
- Review of provision of Health Services
- Leisure Offer
- Place Based Working
- arrangements made by the authority for public health, health promotion, health improvement and for addressing health inequalities

The Place, Economic Growth and Environment Scrutiny Board

The Place, Economic Growth and Environment Board will look at how the Council fulfils 3 strategic priorities and is also responsible for reviewing and scrutinising the exercise by risk management authorities of flood risk management functions which may affect the Borough of Oldham and to exercise the functions of a crime and disorder committee including the following:

a) To review or scrutinise the exercise of crime and disorder functions by responsible authorities and

b) To review or scrutinise any local crime or disorder matter raised by a Member.

Better jobs and dynamic businesses

The strategic outcomes are:

Providing the infrastructure to make Oldham a great place to spend time, and somewhere to open and grow a successful business.

Investments in the next three years include:

- the redevelopment of Spindles, a new performance space and a town centre park
- support for residents to help them into good jobs through Get Oldham Working
- increasing the amount the council spends with local companies, to maximise the impact of the Oldham pound.

Quality homes for everyone

The strategic outcomes are:

- To work with developers and housing associations to deliver the affordable homes that our residents need, and support renters to defend their rights. Over the next three years we will
- Increase the number of high-quality homes that are affordable and meet residents' needs,
- Support tenants to fight back against rogue landlords,
- Enable improvement to home insulation to help protect residents from rising energy prices.

A clean and green future

The strategic outcomes are:

- Responding to the climate emergency and keep Oldham clean and tidy.
- support the borough's growing green industry, as part of making the borough carbon neutral by 2030,
- improve our green spaces, including Northern Roots,
- continue our Don't Trash Oldham campaign, so our residents have neighbourhoods to be proud

Areas covered by the Place, Economic Growth and Environment Scrutiny Board in scrutinising how the Council meets this strategic outcome could include:

- Spindles Development
- Planning
- Housing
- Housing Strategy
- Don't Trash Oldham Campaign
- Northern Roots
- New Performance Space
- Get Oldham Working
- Town Centre Park
- Local procurement and value for money
- Social
- Solar Farm
- Green energy
- Climate Emergency
- Community Safety
- Crime and Disorder
- Licensing and Gambling Policies (respective 2003 and 2005 Acts);
- Plans and Strategies which together comprise the Local Plan – Core Strategy;
- Community Safety and Cohesion Partnership Strategy;

The Governance, Strategy and Resources Scrutiny Board

The Governance, Strategy and Resources Board role includes the scrutiny of key policy items, the annual budget proposals, proposals with significant service and or budgetary implications, risk and performance. The Board will also scrutinise particular proposals being developed at the Greater Manchester level and by the Council's strategic partners, considering the implications for the Borough and for the Council.

The Board will also monitor and hold to account the performance of service delivery within Oldham Council and of strategic partners etc with particular reference to the Corporate Plan and all other strategic plans and monitor organisational risk.

Areas covered by the Governance, Strategy and Resources Board in scrutinising how the Council meets the required outcomes could include:

- Oldham Plan (sustainable community strategy);
- The Council's Corporate Plan;
- Fair Employment Charter;
- Integrated Commissioning Framework; and
- Pay Policy Statement.
- Performance monitoring including performance reports
- Risk reports – Governance
- Annual Budget Setting
- To scrutinise the financial performance of the Council against the approved budget and efficiency savings identified

- To scrutinise issues identified as requiring improvement by external assessors (with the exception of social care matters) ensuring that there is appropriate statutory representation of co-opted members in respect of education matters.
- In reviewing the performance of Council and other services, to scrutinise plans for improvement where performance is weak and to maintain oversight until performance improves.
- The Scrutiny Board (Governance, Strategy and Resources) is the allocated residual responsibility for any function not otherwise allocated to a Scrutiny Board.

6. THE EXECUTIVE

6.1 Executive functions

The executive functions of the Council are those matters that

- are functions that have been identified as executive functions in the Council's consideration of Local Choice Functions;
- are not reserved to the Council in law, whether identified in Section 3 above or not;
- are functions that have not been identified as Council (or non-executive) functions by law, whether identified in Sections 3 and 4 above or not.

6.2 Executive functions of the Council include –

a) The development, revision and amendment of the Plans, Strategies and Policies which form the Policy Framework as set out in Article 4 at Part 2 of the Council's Constitution for submission to the Council for approval and their subsequent implementation;
b) The development of the Budget and related budget plans and strategies for submission to full Council for approval and their subsequent implementation;
c) To be responsible for providing, allocating and the overall management of the financial and land resources of the Council;
d) To keep under review the organisation and management processes of the Council to ensure they make an effective contribution towards the achievement of the Council's objectives;
e) To ensure the achievement of effective and efficient service delivery and operational working of Departments within the Council;
f) Exercising the functions, powers and duties of the Local Education Authority;
g) To deal with all matters relating to emergencies or disasters under Section 138 of the Local Government Act 1972;
h) The level of discretionary fees and charges;
i) To determine the Council's arrangements for dealing with complaints;
j) To be responsible for the corporate risk management functions and strategy, with the exception of functions under *"any relevant strategy provision"* within the meaning of Part 1 (Health, Safety and Welfare in connection with work and controlled dangerous substances) of the Health and Safety at Work Act 1974 to the extent that these functions are discharged otherwise and in the Council's capacity as an employer;
k) To deal with matters concerning the Council's parliamentary business;
l) To amend, modify or vary any plan or strategy which requires amendment after Ministerial approval has been sought and granted to such amendment;

m) To consider and determine all policy matters in relation to staffing, including consultation and industrial relations arrangements, with the exception of any appeals lodged by employees under the Council's employment procedures, but excluding the conduct of employees and conditions of service;

6.3 All the executive functions of the Council are, by virtue of s9E(2) of the Local Government Act 2000 (subject to any provision made under s9EA or 9EB), vested in the Leader of the Council who determines the allocation of executive functions to the Cabinet and Cabinet Boards, Committees and Sub-Committees; the delegation of executive functions and allocation of Portfolios of responsibilities to individual Cabinet Members, including exercising executions functions personally ; the delegation of executive functions to area committees and to Officers; and any joint arrangements for the delivery of executive functions or for executive functions to be delivered by another authority. When the Executive meet collectively it is known as the Cabinet. Executive members appointed may also be known as Cabinet Members.

6.4 **Roles and general responsibilities of the Leader of the Council**

The Leader of the Council (the 'Leader') is the leader of the executive and is vital to the success of the Council in meeting its aims and objectives, especially in the delivery of the Budget and Policy Framework adopted by Council. The Council have adopted the Leader and Cabinet executive arrangements model with the Leader arranging for the discharge of executive functions as detailed in 6.3 above.

In this role the Leader is the principal "public face" of the Council, the Leader having overall responsibility for the style, priorities and strategic policy and management initiatives of the Council and the processes that are necessary to secure their successful implementation.

The Leader holds responsibility to determine the actions necessary to promote or improve the economic, social and environmental wellbeing of the area and to ensure that the action taken will be directed towards sustainable development.

The Leader is the principal spokesperson of the Council and, as such, has overall responsibility for representing its views to the people and businesses of Oldham; retaining an appropriate citizen focus to the Council's service delivery and other work; developing the approach to partnership working, both contractual and non-contractual; and for developing effective external relationships generally.

The Leader is the main link point between the Cabinet, as the Council's Executive arm, and the Council. The Leader leads the Cabinet and Chief Officers in the preparation of the Budget and Policy Framework, will promote the Framework and propose it to Council for approval.

The Leader is the Chair of the Cabinet and needs to have an excellent understanding of the range of functions, priorities, resource pressures and opportunities facing the Council. The Leader therefore needs to work closely with, and monitor the performance of, Cabinet Members within their personal; Portfolios and of the Cabinet as a whole.

The role will involve establishing and maintaining effective and practical working relationships with the Leaders of the Opposition Groups and the Chairs and Vice Chairs of the Overview and Scrutiny Committees. The Leader also needs to be accessible to all non-executive members of the Council and should establish appropriate arrangements to do so.

The Leader will be expected to participate in appropriate local, sub-regional, regional and national forums, international forums, agencies and initiatives affecting the work of the Council.

The Leader must be able to understand and respond appropriately to the views and aspirations of the citizens of the Borough as tax-payers and as service users, ensuring that the Council's plans and strategies are aligned to address those interests and to prioritise amongst them when interests compete.

More specifically the role includes:

a) leading the Community Planning and Consultation processes by working in partnership with voluntary, private and other public sector interests to enhance the economic, social and environmental wellbeing of the local community;
b) being principal spokesperson for the Council;
c) ensuring that communications between the Council and the outside world are adequate and timely;
d) providing political leadership and direction to the style, priorities, strategic policy and strategic management initiatives of the Council;
e) taking overall political responsibility for the revenue and capital budget strategies and priorities which underpin the Budget and Policy Framework;
f) taking overall political responsibility for probity and financial monitoring;
g) representing the view of the Council on matters of corporate or strategic policy, as its Leader, to government, and to other involved bodies and organisations relevant to the Council's work;
h) providing political leadership to individual Executive Members and to the Cabinet as a whole, and monitoring their performances;
i) acting as the final political arbiter within the Cabinet when conflicts of priority arise; and
j) taking the lead on the Localism agenda.

6.5 Roles and general responsibilities of Cabinet members

In addition to the requirements to take decisions under the Scheme of Delegation and exercise their responsibilities in their particular Portfolio, members of the Cabinet will be required:

a) to work, as appropriate, with the other Executive members and with Chief Officers and their staff to compile and, after approval, implement the approved Budget and Policy Framework. The collective responsibility to implement the approved Budget and Policy Framework includes the monitoring of both service delivery and financial performance during the year, and, when necessary, ensure that remedial action is identified and then carried out;

b) to represent the Council, or arrange for it to be represented, in all National, Regional and Local forums relevant to their responsibilities;
c) to work, as appropriate, through formal and informal partnerships with voluntary, private sector and other public sector interests to enhance the economic, social and environmental wellbeing of the local community;
d) to contribute to the preparation, carrying out and monitoring of performance of the Community Strategy ("The Oldham Plan"), the Corporate Plan, and other Strategies and Plans of equivalent status;
e) to liaise and work with other members of the Cabinet as and when required, balancing the demands and requirements in relation to personal Portfolio responsibilities with cross cutting corporate perspectives and obligations;
f) to commission relevant research, especially into better ways of service delivery, in relation to personal Portfolio responsibilities. When doing so, Cabinet members will be expected to place citizens' needs for services and information above the preferences of service providers while recognising the practical, legal and financial constraints which apply;
g) to liaise with and respond to the Chairs or Vice Chairs of the Overview and Scrutiny Committees as and when required, balancing the demands and requirements of personal Portfolio responsibilities with cross cutting corporate perspectives and obligations;
h) to be responsible for ensuring that reports of the External Auditor and other Inspectorates are properly considered and responded to;
i) to ensure that all actions and activities of the Council, especially those in relation to personal Portfolio responsibilities are carried out in a socially inclusive way, in full acknowledgement and discharge of the legislation on gender, race, disability and the environment;
j) to contribute to the determination, adoption, application and review of operation of the Corporate and Service Strategies, Policies and Standards;
k) to monitor the effectiveness of and levels of satisfaction in current service delivery; and
l) to support the localism agenda.

6.6 Deputy Cabinet Members

The Leader of the Council may nominate Members of the Council to act as 'Deputy Cabinet Members'. The role of these Members is to assist the Portfolio Holder to whom they are assigned. Deputy Cabinet Members cannot, by law, exercise any formal executive decision-making powers, either in a meeting or in connection with any individual delegated powers.

6.7 Cabinet Membership and Portfolios

The 2026/27 Cabinet is comprised of the Leader and Executive Members who exercise the following Portfolios:

Cabinet	**Portfolio**
To be updated	

7. THE CABINET AND CABINET SUB-COMMITTEES AND BOARDS

7.1 Cabinet and other bodies and Memberships

7.1.1 The Cabinet and other executive bodies have membership and quoracy arrangements as follows -

Executive Body	**Membership**	**Quorum**
Cabinet	Leader and up to 9 Executive Members	Four members
Community Asset Transfer Cabinet Sub-Committee	3 Executive Members	Two members
Local Improvement Fund Committee Cabinet Sub-Committee	3 Executive Members	Three members
Shareholder Committee	4 Executive Members	Three members, one of whom must be the Leader or Deputy Leader of the Council
Integrated Care Partnership Committee	4 Executive Members	Three members

7.1.2 The Terms of Reference for the Cabinet and the other executive bodies listed above are as follows.

7.2 The Cabinet

The Cabinet shall operate to the following terms of reference –

a) To develop those policies, strategies and all other matters as contained within the Budget and Policy Framework as shown at Part 2, Article 4 to the Council's Constitution, approving draft proposals for consultation and, following consideration of responses to such consultations, determining recommendations for adoption for submission to the Council. To approve the council tax base.

b) To consider and respond to such matters as are referred to the Cabinet by the Council or by an Overview and Scrutiny Committee in accordance with the Budget and Policy Framework Procedure Rules, Executive Procedure Rules and Overview and Scrutiny Procedure Rules at Parts 4C-E of the Council's Constitution.

c) To exercise such executive powers as are delegated by the Leader of the Council to the Cabinet which shall include –
   - To approve all new joint ventures arrangements and receive reports at least annually in respect of Joint Venture Companies and quarterly for all major joint venture arrangements ;
   - Matters that overlap the Portfolios of two or more Cabinet members; and
   - Matters that would otherwise be determined by a Cabinet Member but the Leader determines should be considered by the Cabinet

d) To exercise such executive powers as are delegated to an individual Cabinet Member but that Member, in consultation with the Leader of the Council, considers would be more appropriately considered by the Cabinet.

e) To take such decisions as are referred to the Cabinet in the Council's Financial Procedure Rules and Contract Procedure Rules as contained at Part 4F of the Council's Constitution, in the Land and Property Protocol at Part 5 of the Council's Constitution, and as might be required by any further provision in the Constitution including, but not necessarily exclusively –

   A. Financial Procedure Rules
      (i) Approval of the Council's risk management policy statement and strategy and review of the effectiveness of risk management arrangements ;
      (ii) Receipt of report from the Director of Finance in respect of a breach of Financial or Contract Procedure Rules (where the Cabinet is considered the appropriate body to receive such a report) ;
      (iii) To review performance against the approved capital and revenue budgets on a monthly basis;

(iv) To recommend changes to the Revenue Budget arising from the carry forward process ;

(v) Acceptance of a proposed third party grant in excess of £250,000

(vi) To consider any motion or report submitted to the Council which, if carried, would increase the Council's net revenue or capital budget or might otherwise contravene Financial Procedure Rules

(vii) Approval of procedures for virements (the transfer of resources) between department, earmarked reserves and service budget headings . Any capital virement over £250,000 will be reported to Cabinet for approval;

(viii) Disposal of surplus or obsolete goods, materials and inventory items in a manner other than agreed transfer to another Service, competitive sale or public auction in accordance with Contract Procedure Rules and the Land and Property Protocols ;

(ix) The amendment of fees and charges ; and

(x) The write-off of individual debts over £30,000 .

B. Contract Procedure Rules

(i) To make decisions leading to contracts for the value of £250,000 or over (unless such decision has been delegated to a Cabinet Sub-Committee or integrated care partnership committee; and

(ii) To make decisions relating to the Modification of a contract for the value of £250,000 or over (unless such decision has been delegated to a Cabinet Sub-Committee or integrated care partnership committee) ; and

(iii) To agree exemptions from Contract Procedure Rules in circumstances where the Deputy Chief Executive, or the Assistant Chief Executive are unable to act.

C. Land and Property Protocol

(i) Such decisions regarding the acquisition, disposal and detailed terms for the leasing and appropriation of land, property and assets as specified within the Protocol.

f) To consider any matters that require the collective consideration of the executive by virtue of any legislation, including

- Reports of the Monitoring Officer submitted in accordance with s5A of the Local Government and Housing Act 1989; and
- Reports of the Chief Finance Officer submitted in accordance with s114A of the Local Government Finance Act 1988.

g) Any further matters as might be referred to the Cabinet by the Leader of the Council, including

- making any decision about the establishment, alteration and closure of a maintained school where objections to such proposals have been received by the Council;
- approve initiatives and priorities for urban, industrial and economic development through Council, Government and any further relevant programmes.

h) To make all Key Decisions as defined in the Access to Information Procedure

Rules.

7.3 Community Asset Transfer Cabinet Sub-Committee

The Community Asset Transfer Appeals Cabinet Sub-Committee determines reviews against the decision not to transfer an asset to a Community/Voluntary Group.

7.4 Local Investment Fund Cabinet Sub-Committee

The Local Investment Fund Cabinet Sub-Committee allocates funding from the Local Improvement Fund to projects across the borough which promote and pursue the aims and objectives of the individual District Priorities.

7.5 The Shareholder Committee Cabinet Sub-Committee

The Shareholder Committee Cabinet Sub-Committee will:

1. Safeguard the Council's investment in Companies wholly owned by the Council , Miocare and Northern Roots , and ensure the Company complies with the Council's corporate objectives and maximise outcomes in line with Council policy.
2. Approve the Shareholder's Agreement, where applicable.
3. Receive, review and comment on the annual report and financial accounts of the Council Company and agree how these are to be published and circulated.
4. Appoint and remove Company Directors and ensure directors operate in accordance with the Council Companies' objectives.
5. Agree the employment of any non-executive or external Directors and the basis on which these directors will be remunerated.
6. Appoint the Company auditors.
7. Determine the distribution of any surplus or the issue of any dividends from the Council Company, in accordance with the Shareholder's Agreement, and exercise any other strategic functions flowing from the Council's ownership of shares.
8. Approve any frameworks within which the Council interfaces with the Council Company (e.g. a code of conduct for how Council Officers interact with the Company).
9. Exercise any reserved powers set out in the Company's Shareholder Agreement or Articles of Association.
10. Refer any conflicts arising between the Council Company and other Council-owned companies to the Cabinet for resolution.

7.6 Local Integrated Care Partnership Committee

The Local Integrated Care Partnership Committee will accelerate the Council's journey to placebased working by forming a single entity that can deliver accountability for decisions and budgets at place level.

The Committee will take accountability for health spend in their locality – and do so in concert with Greater Manchester Integrated Care Board (GM ICB) established by decision of Cabinet in November 2022.

The Oldham Integrated Care Partnership Committee ("the Committee") has been established to bring together senior leaders for the NHS (primary, secondary, community and mental health), local authority and the VCFSE (Voluntary, Community, Faith & Social Enterprise). Its role is to focus on the shared priorities within the local health and care strategy and, by working together, improve health, wellbeing, and care for the population of Oldham.It will specifically oversee the effectiveness of collaborative partnership working in the locality, ensuring there is a framework for integrated transformation, delivered under agreed principles, priorities, and objectives.

Additionally, there is a specific purpose in relation to discussions and decisions that are under the section 75 Agreement ("s75") in place between Oldham Council and NHS Greater Manchester Integrated Care Board ("GM ICB"). This is outlined as follows:

a) The s75 part of this Committee is the integrated strategic commissioning body for health and social care services established under section 75 of the NHS Act 2006 between Oldham Metropolitan Borough Council ("Oldham Council) and NHS Greater Manchester Integrated Care Board ("GM ICB").
b) The s75 part of this Committee is a Joint Committee of Oldham Council and GM ICB established under Regulation 10(2) of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (the Partnership Regulations)
c) The s75 part of this Committee shall exercise on behalf of Oldham Council and GM ICB such integrated / joint commissioning functions as may be delegated to it pursuant to such agreement or agreements that they may enter from time to time pursuant to the Partnership Regulations (s75 agreement).

The core principles of the s75 are:

a) To place quality, innovation, productivity, and prevention at the heart of its business by considering the impact of decisions on the quality of care and the patient experience b) To ensure that equality is the fundamental principle on which the s75 operates in the commissioning of services which address the diversity of needs within the borough
c) To take a holistic and integrated approach to the health and social care system, including for investments and savings, being mindful of the wider health and social care system
d) To ensure transparent information sharing in relation to business planning, and

therefore minimising risk from unforeseen unplanned activity in relation to the s75

e) To ensure transparent information sharing in relation to performance and financial information, as relevant to the s75.
f) To share strategic and operational good practice and to provide assurance to partner organisations to comply with all statutory and mandatory duties, including but not limited to, the duties to involve and/or consult (as appropriate) the public; the duty to consult the Overview and Scrutiny Committee; and relevant procurement guidance
g) To undertake such involvement and/or consultation (as appropriate) with patients, users, and the public on issues within the s75 scope
h) To take a proactive approach to sharing information to help partners work more effectively with service users and communities, where this is appropriate and safe to do so.

The Committee is a committee of GM ICB, accountable to GM ICB as per its Scheme of Reservation and Delegation.

Decisions related to the s75 within the Committee are only for those in scope for the integrated commissioning outlined in the s75 Agreement. The Committee will:

a) undertake all functions and duties delegated to it by GM ICB.
b) Convene partners to set the overall vision and strategic direction for the locality, utilising public health-led data and intelligence to inform decision making and reduce health inequalities.
c) Develop a single local strategic plan for health and care in the locality which ensures that services are planned and co-ordinated around people's needs.
d) Ensure connection to the objectives and delivery arrangements of the wider plan for the place and to the means to address the social determinants of health.
e) Ensure that delivery of the strategic aims and objectives is embedded across the system.
f) Agree resource allocation within the scope of responsibilities delegated to it.
g) Be accountable for the pooled budget and have shared oversight of the local pound to ensure the most effective use of public resources.
h) Consider, make recommendations, and have oversight of spend in relation to specific budget areas where it is agreed to align services and funds or hold 'in-sight'.
i) Cooperate to have a shared understanding of the total locality health and care spend and of the mechanisms by which to shift investment towards prevention and early intervention.
j) Operate as the strategic interface into the GM, regional and national systems.
k) Lead locality implementation of key enablers such as digital, estates and workforce planning.
l) Ensure that local people can influence strategy and local service provision.
m) Agree appropriate representation in GM and reflect the agreed locality input.

n) Hold the system to account for delivery of health and care provision for the borough to ensure delivery of agreed outcomes.
o) Monitor delivery of agreed plans including oversight local provider arrangements.
p) Seek assurance on the delivery of system-wide statutory duties including, but not exclusive to, reducing health inequalities, quality and safety of services, performance targets and financial arrangements.
q) Provide assurance to GM ICB and other relevant parties on delivery of statutory functions and responsibilities exercisable by the ICB. System development
r) Agree and articulate expectations for how system partners work together and setting shared values.
s) Ensure effective mechanisms to secure clinical and care professional leadership is embedded at all levels of the partnership.
t) Oversee the development of and continued transition of the Integrated Care Partnership.
u) As needed, support the development and governance arrangements of any locality provider delivery vehicles.
v) Develop strong links with wider Public Service Reform agenda and operate under the GM Public Sector Reform Principles.

The specific remits, responsibilities, and objectives in relation to the s75 are:

a) Take responsibility for the management of partnership arrangements in accordance with the s75 Agreement, including monitoring the arrangements and receiving reports and information on the operation of the arrangements.
b) Set the high-level commissioning strategy and health and wellbeing outcomes for Oldham to meet assessed population, community, and individual need within the financial resources of the s75 Agreement.
c) Make commissioning recommendations for the financial resources not contained within the s75 Agreement.
d) Support the dissolving of traditional boundaries between commissioning and provision of services in Oldham to improve outcomes for the population against the agreed Outcomes Framework
e) Have responsibility for all matters relating to the aligned and/or pooled funds as may be set out in the s75 Agreement.
f) Recommend the high-level parameters for strategic commissioning and services.
g) Maintain a strategic overview and assurance role on behalf of Oldham Health and Wellbeing Board to ensure implementation and delivery of the agreed high-level strategies and outcomes set jointly between Oldham Council and GM ICB under the s75 Agreement.
h) Monitor and review high level outcomes and performance data to ensure that the goals established by commissioners for the transformation of health and social care services are achieved against the Outcomes Framework linked to the s75 Agreement.
i) Govern the arrangements for integrated commissioning in the Oldham borough providing assurance to Oldham Council and GM ICB that their statutory and mandatory responsibilities and strategic objectives are being met and that their combined resources are being utilised to best effect.

j) Provide assurance to Oldham Council and GM ICB for the achievement of the agreed outcomes, commissioning strategies and plans within the available financial envelope.
k) Inform an integrated commissioning strategy, setting out specific goals and outcomes for commissioning in the borough, and the intentions of the whole system to transform health and social care delivery to reflect best practice and value for money as linked to the s75 Agreement.
l) Describe how the outcomes and objectives set out in the s75 Agreement will be achieved.
m) Commit resource at a high level within the aligned and/or pooled funds to achieve the objectives of integrated commissioning as linked to the s75 Agreement.
n) Develop a joint financial plan to underpin the investments and savings to be made jointly by Oldham Council and GM ICB as linked to the s75 Agreement.
o) Set the high-level quality standards for, and monitor and review the outcomes and performance for, commissioned services within the s75 Agreement, identifying areas of good practice and acting where outcomes and performance fall short of requirements.
p) Ensure that the prescribed functions of Oldham Council and GM ICB are properly and effectively discharged through the aligned and/or pooled funds and the strategic commissioning arrangements as appropriate.
q) Provide assurance to Oldham Health and Wellbeing Board, Oldham Council Cabinet, Oldham Council's Overview & Scrutiny Committee and GM ICB of the quality and safety of commissioned services within the s75 Agreement of the proper and effective use of resources in the aligned and/or pooled fund, and of the achievement of agreed strategy and outcomes.
r) Conduct all business in accordance with the provisions of the s75 Agreement, including the standards on partnership behaviours and the code of conduct on conflicts of interest.
s) Identify, record, mitigate and manage all risks associated with the s75 Agreement.
t) Review regular high-level performance and financial monitoring reports relating to the s75 Agreement and ensure, if required, appropriate action is taken to ensure annual delivery of expected performance targets and approved schemes within permitted budget for the financial year.

8. INDIVIDUAL CABINET MEMBERS' SCHEME OF DELEGATION

8.1 General Conditions

8.1.1 The fact that a function stands delegated to a Cabinet Member under these arrangements and that the matter under consideration falls exclusively within the scope of their individual portfolio, does not preclude the Leader of the Council from either exercising the function directly or from requiring the matter to be determined by the Cabinet, subject to any legal requirement.

8.1.2 Whilst the exercise of a function by a Cabinet Member under these arrangements is not made subject to the satisfaction of any prior condition, a Cabinet Member shall, when exercising a discretion remitted to them, be under a duty to consider whether the decision conforms to Council-approved policies and strategies and ensure, in reaching the decision, they have observed approved practices and procedures.

8.1.3 Where it appears to a Cabinet Member that a matter delegated to them might require consideration by the Cabinet prior to a decision being taken, they shall consult the Leader of the Council before proceeding.

8.1.4 An individual Cabinet Member may not discharge an Executive function where the Scheme of Delegation to Officers requires that the function must be discharged by an officer unless expressly delegated to do so by the Leader of the Council.

8.1.5 An individual Cabinet Member may not discharge an Executive function where a Constitutional provision requires that the function must be discharged by an Officer, or where the law requires that function to be undertaken by an Officer.

8.1.6 Individual Cabinet Members making decisions in accordance with this Scheme of Delegation shall be mindful of and comply with the requirements of Section 11 - "Individual Decision Making – Principals and Processes" to this Part.

8.2 Delegations to Individual Cabinet Members

8.2.1 These delegations apply in all circumstances, provided that the matter under consideration is not reserved for decision by the Cabinet or the function is not exercisable by a Committee/Sub-Committee/Board of the Cabinet or through joint arrangements.

a) To make decisions relating to their portfolio responsibilities (excluding Key Decisions), in consultation with the Deputy Chief Executive or the Assistant Chief Executive, a Director in respect of any matter within their Portfolio, subject to that power not being exercised by the Leader of the Council or being reserved by the Leader to the Cabinet, a Cabinet Committee/Sub-Committee/Board or through joint arrangements. This includes decisions made by the Leader within portfolio responsibilities.

b) Virement –
   (i) To approve, in consultation with the Deputy Chief Executive or the Assistant Chief Executive, the Executive Director or Managing Director, virement which is associated with a significant change in the level of service from that set out in the relevant service plan;
   (ii) To approve, in consultation with the Deputy Chief Executive or the Assistant Chief Executive, the Executive Director or Managing Director, virement in an approved budget head by a transfer from another approved budget head in excess of £100,000;
   (iii) To approve, in consultation with the Deputy Chief Executive or the Assistant Chief Executive, the Executive Director or Managing Director, the transfer of resources within a service budget on any one activity in excess of 5% or £50,000, whichever is the smaller;
   (iv) To approve, in consultation with the Deputy Chief Executive or the Assistant Chief Executive, the Executive Director or Managing Director, an increase in an approved Department budget by a transfer from another approved Department budget where both budget heads are cash limited and the variation exceeds £25,000.

c) To make decisions leading to contracts for the value of £100,000 up to £250,000 in consultation with the Deputy Chief Executive, the Assistant Chief Executive, the Executive Director or Managing Director, subject to such decisions not being taken by the Leader of the Council or being reserved by the Leader to the Cabinet, a Cabinet Committee or through joint arrangements. (Contract Procedure Rule 14.1).

8.2.2 **Delegations to the Cabinet Member with responsibility for Finance**

a) Approval of proper insurance cover on advisement from the Director of Finance.

b) Receipt of the report from the Director of Finance relating to the write-off of individual debts deemed irrecoverable prior to the draft annual accounts being submitted to the Audit Committee.

8.2.3 The executive member for children's is designated the lead member for children's services under section 19 of the Children Act 2004.

9. OFFICER SCHEME OF DELEGATION

Section 9A – Introduction and principles

1. Introduction

1.1 Non-executive functions of the Council may be delegated to Officers by the Council, Committees and Sub-Committees under Section 101 of the Local Government Act 1972.

1.2 Executive functions of the Council may be delegated to Officers by the Leader of the Council ("the Leader") and, unless directed otherwise by the Leader, by the Cabinet, Cabinet Committees and Individual Cabinet Members under s9E of the Local Government Act 2000.

1.3 “Function” for these purposes is to be construed in a broad and inclusive fashion and includes the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions within the confines of the law or the Constitution.

1.4 This Scheme of Delegation is set out as far as possible in terms of broad areas of responsibility rather than in specific statutory terms, other than the allocation of non-executive functions as defined by the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 as amended. As a principle, all functions that are not reserved to the Council or a Council Committee, or to the Cabinet or a Cabinet Committee or an individual Cabinet Member are delegated to the Chief Executive, the Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources and other specified senior Officers.

2. Principles of Officer delegated decision making

2.1 The fact that a function has been delegated to the Chief Executive, the Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources or the Directors of Adult Social Care, Legal, Finance or Public Health, does not necessarily require that Officer to give the matter their personal attention and they may generally arrange for such delegation to be exercised by an Officer of suitable experience and seniority. Proper officer functions may be exercised by officers duly authorised acting in the name of the Proper Officer.

The exception to this is:

- if the law specifically requires a particular Officer to take the decision.

2.2 Where the Chief Executive or a Chief Officer has arranged for a delegation to be exercised by another Officer, the Chief Executive or that Chief Officer shall provide a written scheme of delegation.

2.3 A Council Committee or Sub-Committee may from time to time delegate functions to the Chief Executive. A Council Committee means any Committee or Panel established by the Council. A Council Sub-Committee means any Sub-Committee or Panel established by a Council Committee.

2.4 The Chief Executive, the Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources or the Directors of Adult Social Care, Legal, Finance or Public Health may consider in respect of any matter that the delegated authority should not be exercised and that it should be referred to the Council, a relevant Council Committee, or the Cabinet for consideration.

2.5 Where a function has been delegated to an Officer by the Council, a Council Committee or Sub-Committee, or the Leader of the Council or other executive body, the body or person that made the delegation may take back the power at any time.

2.6 A Cabinet Member may direct that a delegated executive authority should not be exercised by the Officer and that the matter should be referred to the Cabinet or an appropriate Cabinet Committee, Sub-Committee or Board for consideration.

2.7 Where a decision is delegated to an Officer in consultation with an elected Member, the law requires that the discretion of the Officer is not fettered.

2.8 In exercising their delegated authority, Officers must consult with Members and other Officers, including, as appropriate, the Monitoring Officer (Director of Legal) and Chief Finance Officer (Director of Finance), and Officers must have regard to any advice given.

2.9 Officers should be aware of the requirements to publish a record of certain decisions and supporting papers in accordance with Access to Information Procedure Rules at Part 4B of the Council's Constitution.

2.10 The principals and processes for individual decision making are considered further at Section 11 to this Part.

Section 9B - General Delegations to Officers

1. General delegations to Officers

1.1 The Chief Executive, the Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources, the Directors of Adult Social Care, Legal, Finance or Public Health or other named Officer shall have power to carry into effect without reference to the Council or the Executive, matters of day to day management and administration of the services for which they are responsible and incurring expenditure for such purpose and taking such action as is necessary within corporate policies.

1.1.1 **Financial**

To comply with all the requirements of Financial Procedure Rules at Part 4F of the Council Constitution, to ensure that the proper financial controls are maintained, and to act in accordance with the following matters specifically delegated therein –

- General responsibilities of the Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources, Directors, Assistant Directors and Heads of Service. (1.17- 20);

- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources, Directors, Assistant Directors and Heads of Serviceto draft service plans and budgets (2.12):

- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources, Directors, Assistant Directors and Heads of Service to control income and expenditure (2.17);

- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources, Directors, Assistant Directors and Heads of Serviceto manage budgets, delegate authority and review budgets (2.19 – 21);

- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive

Director of Resources, Directors, Assistant Directors and Heads of Service to establish sound arrangements for their operations and achieving financial performance targets (2.33);

- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources, Directors, Assistant Directors and Heads of Serviceto assist in the closure of their Directorate accounts (2.36);

- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources and Directors to approve virement within prescribed limits and circumstances and to notify the relevant Portfolio Holder(s) and the Director of Finance accordingly (3.5);

- Assistant Directors and Heads of Service to undertake duties to manage capital programmes and projects in consultation with/as specified by the Director of Finance and in accordance with Financial and Contract Procedure Rules (4.13-14, 16-19, 21);

- The Chief Executive, the Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources, Directors, Assistant Directors and Heads of Service to comply and adhere to the Council's financial systems and procedures as set by the Director of Finance (5.2-6, 8-9);

- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources and Directors to ensure systems are registered in accordance with data protection legislation and staff are aware of responsibilities under freedom of information legislation (5.7);

- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources, Directors, Assistant Directors and Heads of Service must respond to Internal Audit and Counter fraud requests for progress and status updates (6.6);

- the Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive

Director of Resources, Directors, Assistant Directors and Heads of Service to ensure members and Officers are aware of the Council's Anti-Fraud and Anti-Corruption Strategy and of the Whistleblowing Policy, operate in a way that maximises internal check against inappropriate behaviour; and are able to undertake training on preventing fraud (6.10);

- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources, Directors, Assistant Directors and Heads of Service to notify Director of Finance concerning loss or irregularity concerning cash, stores or other property or any suspected financial irregularity (6.11);

- Directors, Assistant Directors and Heads of Service responsibilities concerning risk and insurance, including in the event of an insurance claim or occurrence (7.2-4);

- Directors, Assistant Directors and Heads of Service responsibilities for the care and custody of assets and contingency plans for those assets in the event of disaster, significant event or system failure (8.1-2);

- Directors, Assistant Directors and Heads of Service responsibilities for recording and checking of stock (8.5-7);

- Directors, Assistant Directors and Heads of Service responsibilities for the maintenance of inventories (8.8-12);

- Directors, Assistant Directors and Heads of Service responsibilities for advising Director of Finance of matters concerning the Asset Register (8.14-16);

- Directors, Assistant Directors and Heads of Service ensuring that all staff are aware of and comply with responsibilities under the law and Council procedures concerning the security of information (9.4);

- Directors, Assistant Directors and Heads of Service responsibilities concerning customer/client property and lost property (9.5-7);

- Assistant Directors and Heads of Service responsibilities relating to imprest accounts (11.7- 10);

- Assistant Directors and Heads of Service responsibilities for the collection and banking income, the recording and investigating of discrepancies, determination of satisfactory credit status if credit is given (12.5-15);

- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources and Directors to identify employees to act on their behalf, within limits, in respect of income collection, raising orders (12.16, 13.8);
    - Write-off of debts (within the remit of this Part) –
    - Individual debts up to £5,000 by the Assistant Director
    - Individual debts up to £10,000 by the Director of Finance. (12.17);
    - Individual debts up to £30,000 by the Director of Finance in consultation with Cabinet Member with responsibility for Finance
    - Assistant Directors and Heads of Service to identify Officers authorised to raise requisitions etc to set limits and to notify the Director of Finance (13.9);
- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources, Directors, Assistant Directors responsible for ensuring payment of undisputed invoices within 30 days from receipt of invoice (13.18); and
- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources, Directors, Assistant Directors and Heads of Service responsibilities regarding the appointment of staff and the maintenance of related records (15.1-4).

1.1.2 **Contractual**

To comply with all the requirements of Contract Procedure Rules at Part 4G of the Council Constitution to ensure that the proper contractual procedures are maintained in entering contracts, and to act in accordance with the following matters specifically delegated therein –

- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources or Directors to be satisfied as to adequate budget provision and necessary consents before entering into contracts:
- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources or Directors to ensure that the Directors of Finance and Legal are consulted throughout the procurement process where contract is a key decision;
- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources, in consultation with the

Director of Legal to determine exemptions from Contract Procedure Rules ;

- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources or Director to take immediate action in the event of a failure to comply with Contract Procedure Rules and inform and consult the Director of Legal ;
- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources and Directors to comply with delegations relating to Award of Contracts ; and
- The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources or Directors to comply with requirements relating to claims arising from contracts and provide mandatory information for the Contracts Register

1.1.3 **General Management**

a) Media
To produce statements (or appoint a nominee to approve statements) to the communications team dealing with the work of the Department within the policy framework of the Council.

b) Miscellaneous
To authorise and appoint employees possessing such qualifications as may be required by law or in accordance with the Council's policy, to take samples, carry out inspection, enter premises and generally perform the functions of a duly authorised Officer of the Council (however described) and to issue any necessary certificates of authority or issuing of notices or orders.

To serve requisitions for information as to the ownership of property under the various statutory provisions where necessary.

To sign and serve documents and notices on behalf of the Council.

1.1.4 **Personnel**

a) Personnel Policies

- The Executive Director of Resources (or such Officer who is senior Officer with responsibility for HR) shall have authority to determine all policy matters in relation to staffing, including consultation and industrial relations arrangements (but excluding appeals and individual disciplinary matters).

b) Dispute Resolution

- In the event that the Executive Director of Resources or other Chief Officer or nominee is unable to reach agreement following required consultation on any matter, the matter will be referred to the Chief Executive/Head of Paid Service for advice or recommendation for resolution of the issue, including referral to the Disputes Committee – a sub-committee of the Employment Committee.

c) Suspension

- The Executive Director of Resources (or such Officer, other than the Head of Paid Service, Monitoring Officer or Chief Finance Officer, who is most senior Officer with responsibility for HR), in consultation with the Leader of the Council has power to suspend the Head of Paid Service, Monitoring Officer or Chief Finance Officer with immediate effect in an emergency situation.
- The Executive Director of Resources (or such Officer, other than the Head of Paid Service, Monitoring Officer or Chief Finance Officer, who is most senior Officer with responsibility for HR), has authority to take all actions to progress any investigations into the conduct of the Head of Paid Service, Monitoring Officer or Chief Finance Officer, as the case may be, or other actions as may be required, following the suspension of one or more of those Officers.
- The Chief Executive has the power to suspend Chief Officers.

d) Early Release

- Applications for early release are to be authorised by the Executive Director of Resources or nominee with responsibility for HR and the Director of Finance.

The following are delegated to the respective Chief Executive, The Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources or other Directorate Chief Officer who must ensure that any action is managed within the Directorate's bottom line budget.

e) Appointments

- To appoint employees unless the appointment falls within the responsibility of the Appointments Committee (i.e. Chief Officers and such Deputy Chief Officers as might be determined by the Appointments Committee).
- To appoint employees or contractors on a temporary basis to provide cover for absences of employees or to cater for peaks in workload. Such employees should be employed on terms set out in guidelines issued by the Assistant Chief Executive or nominee.
- To approve removal expenses for an employee taking up employment with the Council in accordance with the Council's Removal and Relocation Scheme.

Each Directorate Scheme of Delegation should specify the level of Officers with powers to appoint and dismiss.

f) Departmental Structure

- To deploy existing employees within the overall structure of the Directorate.
- To agree changes to staffing structures except where either
  - the restructure is deemed to be 'significant' where the Chief Executive will make decisions in consultation with Director of Finance; or
  - the restructure involves the re-grading of posts and/or the creation and grading of new posts in which case the decision must be taken subject to prior consultation with the Executive Director of Resources or nominee (as lead Officer for HR matters) and the Director of Finance or nominee.
- To undertake prior consultation with all appropriate parties affected by a staffing structure proposal, notably the Trades Unions, prior to a decision being made.
- To authorise the filling of the vacant half of a job share post following the resignation of one of the job-share partners.
- To authorise career grade progression for relevant employees in line with previously agreed criteria.

g) Discipline and Dismissal

- To discipline and dismiss employees with the exception of Chief Officers and such Deputy Chief Officers as might be determined by the Appointments Committee.

Each Directorate Scheme of Delegation should specify the level of Officers with powers to discipline and dismiss.

h) Additional Payments

- To approve acting up payments, e.g. honoraria in line with guidelines issued by the Executive Director of Resources or nomine

- To authorise merit increments and ex-gratia payments in line with guidelines issued by the Assistant Chief Executive or nominee.
- To approve non-contractual overtime payments to employees.
- To request the Director of Finance to approve the making of loans for car purchase to employees who are approved as essential car users.
- To enter into compromise agreements with employees subject to approval of the Executive Director of Resources and Director of Finance.

i) Allowances

- To approve eligibility for essential and casual car allowances within an overall car allowance scheme approved by Council.
- To approve the payment of a telephone allowance to applicable employees.

j) Special Leave

- To authorise time off for public duties in line with guidelines issued by the Executive Director of Resources under the Directorate Scheme of Delegation.
- To authorise carer's leave for sick dependents in excess of 5 days subject to such decisions being notified to the Executive Director of Resources or representative.
- To authorise a leave of absence without pay for a maximum of 30 working days per year. This can be extended up to 3 months in consultation with the Executive Director of Resources or nominee.
- To authorise all other requests for special leave in line with the guidelines issued by Executive Director of Resources or nominee.

k) Miscellaneous

- To authorise employees to attend courses.
- To approve claims for damages to employees' personal effects, clothing and motor vehicles in accordance with guidelines issues by the Director of Finance.
- To authorise employees taking up additional employment outside the Council in line with National Terms and Conditions of Service and the provisions of the Council's Code of Conduct.
- The authorisation of secondments.

Officers record of decisions as per the constitutional requirements and decisions where the effect of the decision is to grant a permission or licence or affects the rights of an individual (unless containing confidential or exempt information) or award a contract or incur expenditure which materially affects the financial position of the Council (reference the definition of Principal Decision in Article 14)

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Section 9C - Delegations to Specific Officers

Chief Executive

1. The Chief Executive is the Council's designated 'Head of Paid Service' for the purposes of s4 of the Local Government and Housing Act 1989 and shall fulfil all the statutory duties of that post.

2. The Chief Executive is authorised to discharge any function of the Council and of the Executive, including civic and ceremonial functions of the Council, executive functions and such functions as defined in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) not otherwise remitted to the Council or a Council Committee or Sub-Committee or to the Leader of the Council , Cabinet or individual Cabinet member.

3. The Chief Executive (or any officer appointed as Interim Chief Executive) is the Electoral Registration Officer for any constituency or part of a constituency co-terminus with or contained in Oldham Metropolitan Borough under section 8 of the Representation of the People Act 1983 and The Chief Executive (or any officer appointed as Interim Chief Executive) is the Returning Officer for the election of councillors for Oldham Metropolitan Borough and parish council elections within the Metropolitan Borough under section 35 of the Representation of the People Act 1983. The Chief Executive may appoint deputy electoral registration officers.

4. The Chief Executive is authorised to take any emergency decisions in respect of Council functions (in consultation, where appropriate, with the Mayor or the Chair of the relevant Committee) which cannot be delayed until the next meeting of the Council or the relevant Committee, as the case may be.

5. The Chief Executive is authorised to take any emergency decisions in respect of the Council's executive functions which cannot be delayed until the next Cabinet Meeting.

6. The Chief Executive is authorised to take any action remitted to the Chief Executive within any Part of the Council's Constitution and under corporate policies and procedures.

7. The Chief Executive is authorised to take any act as the Council's "Proper Officer" for the purpose of any function not otherwise delegated under these arrangements.

8. The Chief Executive is authorised on matters relating to staffing, employment, terms and conditions for Council's workforce including the workforce strategy except for those matters specified elsewhere in Part 3 of the Constitution and to approve all significant departmental restructures in consultation with relevant chief officers, the Assistant Chief Executive and Director of Finance.

9. NHS Place Lead in supporting Integrated Care System for the Oldham Locality

10. The Chief Executive or nominated officer may appoint members to committees or sub committees where there are vacancies or positions required to be filled in accordance with the wishes of the relevant political groups.

11. The Deputy Chief Executive is entitled to act as Chief Executive in the absence of the Chief Executive

Executive Director of Place (Deputy Chief Executive)

1. With the exception of matters specifically referred to the Council or to the Cabinet, an individual Cabinet Member or other executive body, as shown at Sections 3, 4, 6 and 7 above, the Executive Director of Place (Deputy Chief Executive) is authorised to discharge any functions of the Executive in relation to the following functions, within the relevant executive portfolio of the duties undertaken by the postholder: -

Economy functions

- Property – including management of land and buildings including acquisition, disposal or letting of land and action under compulsory purchase orders legislation – including serving notices, proposing orders and advertising orders under legislation within those functions
- Housing delivery - including
  - Any statutory powers of the Council as a local housing authority.
  - To develop and submit application for grants as appropriate in support of the delivery of relevant Council strategies
- Business Growth/Support
- Transport – including undertaking action within legislation giving the Council duties and powers and including the submission of bids for funding for transport related programmes and projects
- Planning – undertake those planning functions which are an executive function
- Economic growth and regeneration – including functions relating to Council controlled companies.

- Authorising officers to carry out any statutory duties, powers or functions within the area of responsibilities .

Environment functions

- Building Control
  - including determining all building regulation applications
- Environmental Health – including trading standards, fly tipping, food hygiene, air quality, drainage, health and safety ,and animal welfare, taking any action, serving notices and orders under duties and powers under legislation pertaining to this function and any action required with regards to traveller site(s).
- Public Protection – including powers under the Anti-Social Behaviour Crime and Policing Act 2014 and housing enforcement powers
- Health and Safety
- Parks and Street Cleaning
- Waste – including collection duties under legislation relating to statutory duties and powers of the Council
- Highways – including to adopt highways on behalf of the Council and including the making and determination of Traffic Regulation Orders
- Street Lighting
- Licensing – where executive function
- Authorising enforcement officers under legislation within these functions

Communities functions

- Housing – including any statutory powers and duties of the Council.
- Youth Services
- Districts functions
- Community Safety and Communities
- Voluntary support and engagement with the Faith and social enterprise sector
- Heritage, Libraries and Arts
- To develop and submit applications for grants as appropriate in support of the delivery of relevant Council strategies

1. The Executive Director of Place (Deputy Chief Executive) and Director of Environment and Director of Growth will undertake such Council (or 'non-executive') functions as defined in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) ('the Regulations') as are pertinent to the role of the Executive Director of Place (Deputy Chief Executive) and those mentioned officers and have not otherwise been remitted to the Council, a Council Committee or Sub-Committee or other Officer, specifically including –

    - Town and country planning and development control functions - the Deputy Chief Executive (Place) is authorised to undertake all actions in respect of Council (or 'non-executive') functions, subject to referral

to the Planning Committee in accordance with the Protocol set out in Appendix 2 of this Constitution

1. Planning and Other Applications

Apart from matters reserved to the Planning Committee, all those Council functions set out in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which relate to town and country planning and development control, the protection of important hedgerows, the preservation of trees and the regulation of high hedges are delegated to the Deputy Chief Executive (Place). Development control functions include decisions regarding

- planning applications
- permitted development
- certificates of lawful use and development,
- enforcement
- listed buildings and conservation areas.

The planning functions are to be construed purposively and broadly, to include anything which facilitates or is incidental to them. For example, the power to determine planning applications under s70 Town and Country Planning Act 1990 will include powers governing environmental impact assessments under the various Town and Country Planning (Environmental Impact Assessment) Regulations. It will also include power to impose conditions, limitations or other restrictions or to determine terms to which approvals are subject, and to modify, vary or revoke approvals.
Where legislation is amended or replaced by new provisions or where new development control provisions are enacted, then the relevant authority delegated in this Scheme shall be construed to apply to those new provisions.

2. Other Matters delegated

These matters are not subject to the referral system:

a. Declining to accept repeat applications which have previously been dismissed on appeal and raise no significant new issues.
b. Determination Minor Material and Non-Material Amendment applications.
c. Determination of Discharge of Conditions applications.
d. Determination of any application for a certificate of lawful existing or proposed use or development under Section 191 and Section 192 of the 1990 Act.
e. Authority to determine whether prior approval is required, and subsequent determination of applications (whether or not objections are received) for agriculture and forestry buildings, operations for telecommunications equipment and demolition of buildings under the Town and Country Planning (General Permitted Development) (England) Order 2015.
f. Authority to issue and service Planning Contravention Notices under the Town and Country Planning act 1990 and consider and determine representations made thereto.
g. All matters relating to Tree Preservation Orders.

h. Authority to instruct the Borough Solicitor to institute proceedings for the grant of injunctive relief under powers contained in the Town and Country Planning Act 1990, subject to:
   (i) prior consultation with the Chair and/or Vice Chair of the Planning Committee; or
   (ii) without such consultation if the matter is one of extreme urgency.

i. Authority to instruct the Borough Solicitor to issue and serve discontinuance notices for removal of any advertisement displays erected without express or deemed consent which do not comply with Council's policy on outdoor advertising and in the interests of amenity and public safety.
j. Authority to instruct the Borough Solicitor to issue and service breach of condition notices under the Town and Country Planning Act 1990, and appropriate consequential action as required.
k. Determination of applications, on behalf of the Council, for the modification or discharge of any planning obligations in accordance with Section 106A and 106B of the Town and Country Planning Act 1990 and the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992, and to continue to deal with any agreed amendments or discharges which are not covered by the above legislation.
l. Authority to instruct the Borough Solicitor to issue and serve notices under Section 215 of the Town and Country Planning Act 1990 (power to require the proper maintenance of land adversely affecting neighbourhood amenity).
m. Authority to instruct the Borough Solicitor to issue and serve enforcement and stop notices under the Town and Country Planning Act 1990.
n. Authority to institute legal proceedings and statutory procedures in relation to the Council's planning functions, both by Deputy Chief Executive (Place) and the Borough Solicitor.
o. The issuing of screen opinions with regard to the need or otherwise for Environmental Impact Assessments and scoping opinions with regard to the matters to be included in Environmental Statements.
p. Authority to authorise officers to carry out statutory duties and functions in relation to the Town and Country Planning Act 1990 and other current planning related legislation.

- Licensing and registration functions - the Executive Director of Place (Deputy Chief Executive) and Director of Environment are authorised to undertake all Council (or 'non- executive') functions as defined under that heading in Schedule 1 of the Local Authorities (Function and Responsibilities) (England) Regulations 2000 with the exception of those matters reserved by the Council to the Licensing

Committee or are referred to the Licensing Committee or to a Sub-Committee or Panel of the Licensing Committee by either the Licensing Act 2003 or the Gambling Act 2005.

- Public rights of way functions - the Executive Director of Place (Deputy Chief Executive) and Director of Environment are authorised to undertake all Council (or 'non- executive') functions as defined under that heading in Schedule 1 of the Regulations with the exception of those matters reserved by the Council to the Highway Regulation Committee.

- Serving notices, proposing orders, and advertising orders and undertaking enforcement activity under legislation within these functions.

- Authorising officers to carry out statutory duties, powers and functions with the area of responsibility.

- The Executive Director of Place (Deputy Chief Executive) to act on behalf of the Chief Executive in the absence of the Chief Executive.

Executive Director of Health and Care (Deputy Chief Executive)

With the exception of matters specifically referred to the Council or to the Cabinet, an individual Cabinet Member or other executive body, as shown at Sections 3, 4, 6 and 7 above, the Executive Director of Health and Care (Deputy Chief Executive) is authorised to discharge any functions of the Executive and non executive functions as pertinent to this role of Executive Director of Health and Care (Deputy Chief Executive) and have not been otherwise been remitted to the Council, a committee, a sub-committee or officer of the Council in relation to: -

- Adults services, Public Health and Miocare
- Strategic oversight of system integration of relevant Children and Education Services and health and care within the Oldham system.
- NHS Deputy Place Lead responsibilities for Integrated Care system
- Strategy and Performance including:-
    - To deal with matters relating to the development of the Corporate Plan and Borough Plan
    - -The provision of policy and research support as part of the policy development and corporate planning process.
-
- Communications and Policy

Executive Director of Resources

With the exception of matters specifically referred to the Council or to the Cabinet, an individual Cabinet Member or other executive body, as shown at Sections 3, 4, 6 and 7 above, the Executive Director of Resources is authorised to discharge any functions of the Executive and non executive functions as pertinent to the role of Assistant Chief Executive and have not been otherwise been remitted to the Council, a committee, a sub- committee or

officer of the Council in relation to: -

- Workforce and Organisational Design – including:-To undertake the following specific delegations in relation to staffing matters –
  (a) Power to implement discretionary provisions of pay awards determined by National or Local Negotiating Bodies
  (b) Power to implement discretionary provisions of circulars relating to terms and conditions determined by National or Local Negotiating Bodies.
  (c) The interpretation and application of pay scales and conditions of service for all employees.
  (d) The administration and implementation of the Council's workforce strategy
  (e) Implement and adopt nationally negotiated decisions on conditions of service and pay awards
  (f) to implement all departmental restructures
  (g) administration of pension functions

- Customer Services
- IT and digital
- Registrars services
- Legal Services
- Procurement
- Internal Audit
- Transformation
- Revenues and Benefits
- Performance improvement
- Information Governance
- Finance Service
- Management of democratic services, electoral services and civic and member support services
- To arrange for the discharge of the Council's functions relating to local land charges

Executive Director of Children and Young People (DCS)

1. The Managing Director of Children and Young People (DCS) is the Council's designated Director of Children's Services in accordance with s18 of the Children Act 2004 and is responsible for the undertaking of all statutory duties associated to that post.

2. With the exception of matters specifically referred to the Council or to the Cabinet, an individual Cabinet Member or other executive body, as shown at Sections 3, 4, 6 and 7 above, the Managing Director of Children and Young People is authorised to discharge any functions of the Executive in relation to: -

- Children's Social Care functions

- Children’s Social Care
- Safeguarding
- Mash
- Early Help
- Adoption and Fostering

including:

- The control of visits to and contact with children in the Children's homes, provided by the Council
- The review of the welfare, health, education, conduct and progress of Children Looked After by the Council under the Children Act 1989.
- The making of grants to children or their relatives, foster carers and prospective adoptive parents, according to the special needs involved to a maximum to be decided from time to time by the Council.
- To take any action which is calculated to facilitate or is conducive or incidental to the discharge of functions in accordance with the Children Act 2004 and to comply with requirements imposed by legislation.
- The making of arrangements with, or contributions to, non-statutory organisation and other local authorities providing residential or temporary accommodation to children or young people.
- Commencement of and participation in legal proceedings relating to the care, welfare or safeguarding of a child under any legislation.
- Responsibility for all arrangements for children looked after by the Council
- Authority to make and participate in arrangements for the adoption of children under any legislation, subject to receipt of advice from the Adoption Panel as necessary
- Authority to make and participate in arrangements for the adoption of children under any legislation, subject to receipt of advice from the Fostering Panel as necessary

- Support for Children and Families

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- Education and Early Years functions

- Education and Early Years
- Skills / Lifelong Learning
- SEND
- School Improvement
- School Admissions

- Post-16 Education
- Get Oldham Working

including:

- The assessments of, making and maintenance of Education, Health and Care Plans for Children and young people with special educational needs and / or disability (SEND).
- The appointment of Local Authority Governors.
- To take the necessary action to ensure the safeguarding of children in all educational provision, whether early years, primary, secondary, or residential schools, or out of school activities and youth work.
- To take the necessary action to ensure all schools and educational services have policies and procedures for child protection and to ensure the Local Education Authority is a core Member of the Local Safeguarding Children Board and that maintained schools, staff and governors and other direct educational provision are fully integrated in and familiar with, child protection procedures.
- To take the necessary action to ensure measures are in place to promote good attendance; to provide effective personal, social and health education; support for family learning; opportunities for personal and social development, and support for the voice of young people and children, with specific attention given to groups at risk of low achievement, including children in public care, with special needs, and particular ethnic groups; the attendance, behaviour and provision for pupils out of school, within the context of a general approach to educational inclusion.
- Arrangements for the admission of pupils to all community, controlled and special schools
- Arrangements for dealing with pupil exclusion and reinstatement cases
- The provision of home/school transport for pupils
- Matters relating to the enforcement of school attendance, including the authorisation of legal proceedings
- The making of any grants to children or students to facilitate educational attendance a) Power to grant financial assistance with boarding education (in consultation with the Portfolio Holder for Children’s Services)
- Arrangements for the monitoring of school performance having regard to the Code of Practice on Local Authority/School relations
- Arrangements for intervening in schools under Special Measures or otherwise causing concern
- Arrangements for receiving OFSTED reports.

3. The Managing Director of Children and Young People (DCS) will undertake such Council (or 'non-executive') functions as defined in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) as are pertinent to the role of the Managing Director of Children and Young People (DCS) and have not otherwise been remitted to the Council, a Council Committee or Sub-Committee or other Officer.

Director of Adult Social Care (DASS)

1. The Director of Adult Social Care (DASS) is the Council's designated Director of Adult Social Services in accordance with s6 of the Local Authorities Social Services Act 1970 and is responsible for the undertaking of all statutory duties associated to that post.

2. With the exception of matters specifically referred to the Council or to the Cabinet, an individual Cabinet Member or other executive body, as shown at Sections 3, 4, 6 and 7 above, the Director of Adult Social Care (DASS) is authorised to discharge any functions of the Executive in relation to:-

- Adult Social Care Functions
    - Safeguarding
    - Care Homes and Social Care providers
    - Community Enablement
    - Learning Disabilities

    - including:
    - taking any action which is calculated to facilitate or is conducive or incidental to the discharge of Adult Service functions and to comply with requirements imposed by legislation.
    - The assessment and admission of persons to accommodation within the Adult Services functions, the recovery of charges and the adjustment of liability.
    - The power to make applications and to act as deputy for persons who are incapable of managing their own affairs.
    - To administer the operation of an approved list of Residential Care and Nursing Homes and Home Support providers.
    - To negotiate the supply of appropriate accommodation
    - To determine individual charges for each placement
    - The discharge of the Council's functions relating to the discharge of patients under Mental Health Act.
- Miocare/ Chadderton Total Care
    - Undertake client responsibility for Miocare activity and Chadderton Total Care

2. The Director of Adult Social Care (DASS) will undertake such Council (or 'nonexecutive') functions as defined in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) as are pertinent to the role of the Director of Adult Social Care (DASS) and have not otherwise been remitted to the Council, a Council Committee or Sub-Committee or other Officer.

Director of Legal (Monitoring Officer)

1. The Director of Legal is the Council's designated 'Monitoring Officer' for the purposes of s5 of the Local Government and Housing Act 1989 and shall fulfil all the statutory duties of that post.

2. The Director of Legal is authorised to act, and to take any action intended to give effect to any decision of

- the Council;
- a Council Committee or Sub-Committee acting under delegated powers;
- the Leader of the Council where the Leader of the Council has determined that they shall be personally responsible for a particular executive decision;
- the Cabinet or any other executive body or individual acting under delegated executive powers;
- an Overview and Scrutiny Board in pursuance of their statutory powers; or

an Officer discharging any delegated Council or executive or non executive function; and have specific duties in relation to: -

a) the making or issuing or serving of orders and notices including any procedural arrangements for the issue of any consents, decisions and notices on behalf of the Council under statutory powers and duties .

b) the commencement, defence, of legal or other proceedings including prosecutions and withdrawal or settlement of legal proceedings.

c) the authorisation of Council employees to conduct legal matters in court and other matters relating to the courts and legal proceedings and to instruct Counsel or other external providers to undertake legal work

d) contractual elements of procurement and land transactions including executing documents and including giving undertakings on behalf of the Council.

e) commons registration.

f) the recording of decisions of Council, the Executive and all relevant committees.

g) taking any action remitted to the Director of Legal under corporate policies and procedures including under the Regulation of Investigatory Powers Act 2000.
h) Make arrangements for school admission appeals
i) Appointment of a deputy monitoring officer

3. Further to Paragraph 2 above, the Director of Legal will undertake such additional Council (or 'non-executive') functions as defined in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) as are pertinent to the role of the Director of Legal and have not otherwise been remitted to the Council, a Council Committee or Sub-Committee or other Officer and to take action in role of Monitoring Officer under the Arrangements for dealing with complaints against members under the Localism Act 2011.

4. The Director of Legal is authorised to act and to take any action as might be referred to the Director of Legal by the Council's Financial Procedure Rules and Contract Procedure Rules as contained within Parts 4F and 4G respectively of the Council's Constitution and within any further Constitutional provision applying and can grant dispensations under section 33 (a), (b) and (d) of the Localism Act (Standards Committee have power to grant dispensations under section 33 (2) (c) and (e) of the Act.)

5. **Director of Finance**

1. The Director of Finance is the Council's designated 'Chief Finance Officer' for the purposes of s114 of the Local Government Finance Act 1988 and shall fulfil all the statutory duties of that post and in accordance with S151 of the Local Government Act 1972 shall be the officer with responsibilities for the proper administration of the Council's financial affairs.

2. The Director of Finance is authorised to act and to take any action intended to give effect to any decision of

- the Council;
- a Council Committee or Sub-Committee acting under delegated powers;
- the Leader of the Council where the Leader of the Council has determined that they shall be personally responsible for a particular executive decision;
- the Cabinet or any other executive body acting under delegated executive powers;
- an Overview and Scrutiny Committee in pursuance of their statutory powers; or
- an Officer discharging any delegated Council or executive or non -executive functions; and have specific executive and non-executive duties in relation to: -

(a) Report on decisions incurring unlawful expenditure, unlawful loss or deficiency or unlawful item of accounts under the Local Government Finance Act 1988.
(b) Appointment of Deputy
(c) Report on resources under the Local Government Finance Act 1988.
(d) Borrowing, investment accounts and financial administration under the Local Government Act 2003.
(e) Responsibility to determine the form of the Council's accounts and records, provide internal audit and statement of accounts
(f) The administration of benefits including Housing Benefit.
(g) The collection of revenue (including debt recovery)
(h) The administration of Council tax and national non-domestic rates including enforcement and including Discretionary and Hardship relief in relation to both Council Tax and Business Rates in accordance with approved discretionary policies in consultation with the relevant Executive member as appropriate
(i) Internal audit and counter fraud function
(j) The delivery of the National Anti-Fraud Network which provides data pursuant to legislation
(k) Creditor payments
(l) Accountancy including transactions

(i) to stipulate the date by which all financial records for any financial year shall be completed.
(ii) appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from officers concerning money laundering activity
(iii) to approve any changes to existing financial systems and to approve any new systems before they are introduced.
(iv) to determine the petty cash limit for individual minor items

(m) The Council's insurance arrangements and risk management
(n) Information governance and activities in relation to discharge of the function of the Senior Information Responsible Officer
(o) To determine the Councils approach to information security
(p) The writing off of debts up to £10,000 and up to £30,000 in consultation with the Cabinet Member with responsibility for Finance and to review in detail all debtors to support the closure of final accounts writing off those considered irrecoverable reporting to the Cabinet Member with responsibility for Finance
(q) The power to serve notice in accordance with the Non-Domestic Rating (Alteration of lists and Appeals) Regulations 2005, when such action is required to preserve the Authority's position on non-domestic rating valuation matters.
(r) To decide on the appropriate arrangements for Performance Bonding for all contracts in excess of £75,000 contract sum

(s) To take any action remitted to the Director of Finance under corporate policies and procedures.
(t) The provision of financial management advice, financial analysis and appraisal
(u) The power to serve notices under relevant local government functions
(v) Treasury management functions of the Council as detailed in the annual Treasury Management Strategy approved by the Council and the Financial Procedure Rules including investment of surplus funds and borrowing.
(w) Procurement Functions
(x) Transformation Services

i. The Director of Finance is authorised to act and to take any action as might be referred to the Director of Finance by the Council's Financial Procedure Rules and Contract Procedure Rules as contained within Parts 4F and 4G respectively of the Council's Constitution and within any further Constitutional provision applying.

Director of Public Health

1. The Director of Public Health is the Council's designated 'Director of Public Health' for the purposes of s73A of the National Health Service Act 2006 and shall fulfil all the statutory duties of that post.

2. With the exception of matters specifically referred to the Council or to the Cabinet, an individual Cabinet Member or other executive body, as shown at Sections 3, 4, 6 and 7 above, the Director of Public Health is authorised to discharge any functions of the Executive in relation to: -

- Health Improvement
  - To be responsible for the management of public health service as regards effectiveness, availability, and value for money.
  - Delivery of the Council's duties as to the improvement of public health and health protection including providing information and advice and providing services and facilities.
- Health Protection
  - Ensure plans are in place to protect the health of the local population from threats to health
  - Planning for and responding to a risk to public health.
- Commissioning Healthcare Services
- Reducing Health Inequalities
- Leisure
- To undertake services and take steps in relation to or conducive for the discharge of functions relating to the provisions of the service.

3. The Director of Public Health will undertake such Council (or 'non-executive') functions as defined in the Local Authorities (Functions and

Responsibilities) (England) Regulations 2000 (as amended) as are pertinent to the role of the Director of Public Health and have not otherwise been remitted to the Council, a Council Committee or Sub-Committee or other Officer.

10. STATUTORY AND PROPER OFFICERS

10.1 Legislation requires the Council to appoint specific Officers and to identify Officers for particular responsibilities.

10.2 The principal appointments are detailed below:-

Statutory Role	Statutory Requirements	Officer Appointed
Head of Paid Service	Section 4 of the Local Government and Housing Act 1989	The Chief Executive
Chief Finance Officer	Section 114 of the Local Government Finance Act 1988 and responsibilities under Section 151 Local Government Act 1972	Director of Finance
Monitoring Officer	Section 5 of the Local Government and Housing Act 1989	Director of Legal
Director of Children's Services	Section 18 of the Children Act 2004	Executive Director of Children and Young People
Director of Adult Social Services	Section 6 of the Local Authority Social Services Act 1970	Director of Adult Social Care
Director of Public Health	s73A of the National Health Service Act 2006	Director of Public Health
Returning Officer Electoral Registration Officer (and therefore Acting Returning Officer for UK Parliamentary Elections)	Section 35 of the Representation of the People Act 1983 Section 8 of the Representation of the People Act 1983	Chief Executive (or any Interim Chief Executive)
Statutory Scrutiny Officer	Section 9 FB Local Government Act 2000	Assistant Director of Governance

10.4 The posts set out below are the designated Proper Officer for the Council and will undertake the specific responsibilities attached to the role of the specific Proper Officer.

10.5 In the event of any Officers being for any reason unable to act or of any of their posts being vacant, the Chief Executive or, in their absence, the Executive Director of Place (Deputy Chief Executive), the Executive Director of Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People or the Executive Director of Resources shall nominate an Officer to act in their place.

10.6 Until the Council decides otherwise the Chief Executive is appointed the Proper Officer for the purpose of all statutory provisions, whether existing or future, in respect of which no express Proper Officer appointment has, for the time being, been made.

10.7 Proper Officers

Legislation	Section	Provision	Proper Officer
Any reference to any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26th October 1972 to the Town Clerk of a Borough which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.			Chief Executive
Any reference in any local statutory provision to the Clerk of the Council or similar which, by virtue of an order made under the Local Government Act 1972 or the Local Government Act 1992, is to be construed as a reference to the Proper Officer of the Council.			Chief Executive
Local Government Act 1972	S83(1) -(4)	Witness and receipt of declaration of acceptance of office	Chief Executive
	S84	Receipt of declaration of resignation of office	Chief Executive
	S88(2)	Convening of meeting of Council to fill casual vacancy in office of Chair/Mayor	Chief Executive
	S89(1)(b)	Receipt of notice of casual vacancy from two local government electors	Chief Executive
	S225(1)	Deposit of documents	Chief Executive

Local Elections (Principal Areas) Rule 1986	Rule 44	Receipt from Returning Officer of names of persons elected to Council	Chief Executive
	Rule 46, 47	Receipt from Returning Officer of election documents	Chief Executive
	Rule 48, 49, 51	Retention of election documents and making them available for public inspection	Chief Executive
Local Government and Housing Act 1989	S2	Receipt of list of Politically Restricted Posts	Chief Executive
	S15, 16, 17	Receipt of notices relating to Political Groups	Chief Executive
The Local Authorities (Standing Orders) (England) Regulations 2000	Regs 3 and 4 and Schedule 1	Provision relating to the appointment and dismissal of staff	Chief Executive
Registration Services Act 1953	S9(1) S3(b) S13(2)(h) S20(b)	Registration of Births, Deaths and Marriages	Executive Director of Resources
		Registration of Births, Deaths and Marriages Regulations 1968 - 1994	Executive Director of Resources
Local Government Act 1972	S100(B)(2)	Circulation of reports and agendas	Director of Legal
	S100(C)(2)	Summary of minutes	Director of Legal
	S100(D)(5)(a)	Identification of background papers	Director of Legal
	S100(F)	Identification of confidential documents not open to Members	Director of Legal
	S234	Authentication of documents	Director of Legal
	S236(9) & (10)	Service of Byelaws on other Authorities	Director of Legal
	S238	Certification of Byelaws	Director of Legal

	Schedule 14 Para 25(7)	Certification of resolutions - Para 25	Director of Legal
	S248 (2)	Keeping roll of Freeman	Director of Legal
	Schedule 12 Para 4(2)(b)	Signature of summons to Council	Chief Executive
	Schedule 12 Para 4 (3)	Receipt of notices regarding addresses which Summons to meeting are to be sent	Director of Legal
Local Government Act 1974	S30(5)	Notice of Local Government Ombudsman report	Chief Executive
Local Government (Miscellaneous Provisions) Act 1976	S41	Certification of copies of resolutions, Minutes, other documents	Director of Legal
Elections	N/A	Officers who in the event of the Chief Executive being for any reason unable to act or in his absence authorised to undertake the full range of duties	Executive Director of Resources/ Director of Legal
Council Tax (Administration and Enforcement) Regulations 1992	Reg 7	Service of Attachment of Earnings Orders	Director of Legal/ Director of Finance
The Local Authorities (Executive Arrangements) (Access to Information (England) Regulations 2000	Regs 3 and 4	Recording of collective Executive Decisions	Director of Legal
Local Government	S115(2)	Receipt of money due from Officers	Director of Finance
	S146(1) (a) & (b)	Declarations and certificates with regard to securities	Director of Finance

Act 1972	S210(6) & (7)	Charity functions of holders of offices with existing authorities transferred to holders of equivalent office, to the Proper Officer	Director of Finance
	S228(3)	Accounts - to be open for inspection	Director of Finance
	N/A	Any reference in any local statutory provision to the Treasurer of a specified Council or the Treasurer of a specified Borough which, by virtue of order made under Section 254 of the Local Government Act 1972, or the Local Government Act 1992, is to be construed as a reference to the Proper Officer of the Council	Director of Finance
	N/A	Any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26th October 1972 to the Treasurer or a Treasurer of a Borough which virtue of any provision of the said Act is to be construed as a reference to the Proper Officer of the Council	Director of Finance
Rates Act 1984	S7	Certification of rate	Director of Finance
Local Government Act 1972	S96(1)	Receipt of notices of pecuniary interests	Director of Legal
	S94 & 96(2)	Keeping of record of disclosures and notice of pecuniary interests	Director of Legal

Local Government and Housing Act 1989	S19	Members interests - notification	Director of Legal
National Assistance Act 1948	All	Public Health (misc)	Director of Public Health
National Assistance (Amendment) Act 1951	All	Public Health (misc)	Director of Public Health
Public Health (Control of Diseases) Act 1984	S11(1) S11(3) S18(1) S20(1) S21(1) S22(1) S23(2) S24(1) S26(2) S29(4) S30(2) S31(1) S32(1) S34(3), (5) S35(1) S36(1) S37(1) S38(1) S39(1), (3) S40 S41(1) S42(1) S43(1) S48(1) S50(2)(b) S51(1)	Control of Diseases (various)	Director of Public Health

The Public Health (Infectious Diseases) Regulations 1988	Regs 6 Regs 8 Regs 9 Regs 10 Regs 11 Regs 12 Regs 13 Schedule 3 & 4	Infectious Diseases	Director of Public Health
Milk and Dairies (General) Regulations 1988	Part VII (Regs18 to 20)	Statutory Provision Pasteurisation Orders	Director of Public Health
Local Government Act 1972	S191	Functions in respect of Ordnance Survey	Executive Director of Place (Deputy Chief Executive)
	S204(3)	Receipt of application for licence under Licensing Act 1964	Executive Director of Place (Deputy Chief Executive)
	S234(2)	Statutory Notices under various Public Health and associated legislation	Director of Public Health
	Schedule 16 Para 28	Receipt of deposit lists of protected buildings	Executive Director of Place (Deputy Chief Executive)
Rent (Agriculture) Act 1976	All	Provision of alternative accommodation Regeneration and Architecture	Executive Director of Place (Deputy Chief Executive)
Local Authorities Cemeteries Order 1977	All	Officer of the burial authority	Director of Environment
	All	Registrar for various matters relating to cremation Health and to nominate a Medical Referee and Deputy Referees under the regulations	Director of Environment

Cremation Regulations	All	Registrar for various matters relating to cremation Health and to nominate a Medical Referee and Deputy Referees under the regulations	Director of Environment
Rent Act 1977	S15	Certificates of provision of suitable alternative Regeneration and Architecture Part IV accommodation	Executive Director of Place (Deputy Chief Executive)
Highways Act 1980	S37(5)	Deposit of Certificate of Dedication or copy order	Director of Environment
	S205(3)	Preparation of specification estimate and provisional appointment	Director of Environment
	S205(3)	Certification of copies of resolution and approved documents	Director of Environment
	S210(2)	Certifications of document giving details of estimate and consequential amendment of provisional appointment	Director of Environment
	S211(1)	Making final appointment	Director of Environment
	S216(2) & (3)	Settlement of proportion of amount	Director of Environment
Building Act 1984	S61(2)	Repair etc., of drain	Director of Environment
	S78	To act as “the surveyor” empowered to take and authorise emergency action in respect of damage to dangerous buildings, walls etc. To order the demolition of buildings rendered dangerous by damage, without prior authorisation of the Council	Director of Environment

Weights and Measures Act 1985	S72	Chief Inspector (Weights and Measures)	Director of Environment
Environmental Protection Act 1990	S149	Stray dogs	Director of Environment
Licensing Act 2003		Power to grant and vary premises licences and club premises certificates, under the provisions contained in the Licensing Act 2003, where there are no relevant representations from responsible authorities/interested parties.	Director of Environment
		Power to grant personal licences, under the provisions contained in the Licensing Act 2003,	Director of Environment
		where there are no representations from the police.	
		Power to make Provisional Statements, under the provisions contained in the Licensing Act 2003, where there are no relevant representations from responsible authorities/interested parties.	Director of Environment
		Power to grant Interim Authorities, and to transfer premises licences, under the provisions contained in the Licensing Act 2003, where there are no representations from the police.	Director of Environment

		Power to vary designated premises supervisors on premises licences, under the provisions contained in the Licensing Act 2003, where there are no representations from the police.	Director of Environment
		Power to deal with requests to be removed as designated premises supervisors from premises licences, under the provisions contained in the Licensing Act 2003.	Director of Environment
		Power to decide whether a complaint, or request for review of a licence, is repetitious frivolous vexatious etc, under the provisions contained in the Licensing Act 2003.	Director of Environment
Gambling Act 2005		Power to grant applications for premises licenses, under the provisions of the Gambling Act 2005, where no representations have been received or where representations have been withdrawn.	Director of Environment
		Power to vary a licence under the provisions of the Gambling Act 2005, where no representations have been received or where representations have been withdrawn.	Director of Environment
		Power to transfer a licence under the provisions of the Gambling Act 2005, where no representations have been received from the Commission.	Director of Environment

		Power to approve a provisional statement under the provisions of the Gambling Act 2005, where no representations have been received or where representations have been withdrawn.	Director of Environment
		Power to grant applications for club gaming/club machine permits under the provisions of the Gambling Act 2005, where no objections have been made or where objections have been withdrawn.	Director of Environment
		Functions relating to the registration and regulation of small lotteries.	Director of Environment
Local Government	All	Power to grant, renew, suspend, revoke, addition	Director of Environment
Miscellaneous Provisions Act 1976 & Town Police Clauses Act 1847 and any other related regulation(s).		of relevant conditions and transfer	

The Chief Executive has power to discharge the functions relating to elections set out in Schedule 1 (D) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (including power to assign officers in relation to requisitions of the Registration Officer, to pay expenses properly incurred by Electoral Registration Officers, the duty to declare a vacancy in office in certain cases, the duty to give public notice of a casual vacancy, other than those reserved for full Council.

11. DECISION MAKING BY INDIVIDUALS – PRINCIPALS AND PROCESSES

The significance of decisions taken by individuals under delegated powers will vary and Cabinet Members, Chief Officers and those they empower to make decisions will need to exercise judgement in determining whether decisions are significant enough to require formal recording. In making decisions, Cabinet Members, Chief Officers and others should be aware of the requirements of the Council's Constitution generally and of the Access to Information Procedure Rules at Part 4B of the Constitution more specifically.

The Council has three levels of decision making.

- **Key decisions** - these are executive decisions which are likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which any decision relates; or to be significant in terms of its effects on communities living or working in the area comprising two or more wards in the area of the local Council. The full working definition of a Key Decision is set out at Access to Information Procedure Rule 11.
- **Principal Decisions** – these are decisions in relation to either a Council or an Executive function which is not a key decision but which result in the Authority incurring expenditure or making savings (including receipt or loss of income) of over £100,000 each year; or which are, in the opinion of the Chief Officer, of such significance that a record of the decision would ensure transparency and accountability in relation to decision making within the Authority.
- **Administrative Decisions** – these are decisions below the level of Principal Decisions so long as the decision is within an approved budget, is not in conflict with the Budget and Policy Framework (defined at Article 4 of Part 2 to the Council's Constitution) or other approved policies and does not raise new issues of policy.

There are differing requirements for the publication of information around each level of decision and the detailed requirements are laid out in Access to Information Procedure Rules.

- Key decisions – advance public notice of the intention to take a key decision must be given and the decision and the report on which the decision was based must be published.
- Principal decisions - the decision and the report on which the decision was based must be published.
- Administrative decisions – there is no requirement to publish the decision.

Decision Making – Delegation to Officers

Before taking any decision, an Officer must be satisfied that they have delegated power from the Council or a Council Committee, or from the Leader of the Council, the Cabinet or other Executive body, or through the Council's Constitution to take that decision.

The Officer Scheme of Delegation (as shown at Section 9 of Part 3 to the Council's Constitution) generally provides for delegated authority to take a decision at the highest

level, that is by the Executive Director of Place (Deputy Chief Executive), Executive Director of Health and Care (Deputy Chief Executive), Executive Director of Children and Young People, the Executive Director of Resrouces or one of the Statutory Officers (hereafter referred to as 'Chief Officers'). However, the Scheme includes the power for those Officers to delegate any function which has been delegated to them under the Scheme to another Officer or Officers of suitable experience and seniority.

Each Chief Officer must prepare a Departmental Scheme of Delegation which sets out how decisions will be made in their Department. These Departmental Schemes should be lodged with the Chief Executive and made available on request. The Departmental Schemes should establish which Officers have been given authority to make decisions under the Chief Officer's delegated powers and any conditions placed on the exercise of those powers. However, while the Chief Officer may authorise other Officers to take delegated decisions, the decisions are still the personal responsibility of the Chief Officer.

In any circumstance, a Chief Officer may decide that a particular issue is such that it should be referred to the Cabinet or a Council Committee, as appropriate, for a decision to be taken. The Officer should seek the agreement of the Chief Executive to this course of action in the first instance.

Similarly, the fact that a function stands delegated to an Officer does not preclude the Council, a Council Committee, or an Executive body from exercising the function itself, subject to the function being within the general remit of the body and any legal requirements.

Whilst the exercise of a function by an Officer is not made subject to the satisfaction of any prior condition, Officers must ensure that the decision conforms to Council approved budget, policies and strategies, and that they have observed approved practices and procedures, including those in relation to community consultation.

Decision Making – Delegation to Individual Executive Members

Before taking any decision, the Cabinet Member must be satisfied that they have delegated power, either from the Leader of the Council or through the Council's Constitution as shown in the Individual Cabinet Members' Scheme of Delegation as shown at Section 8 of Part 3 to the Council's Constitution, to take that decision.

The Individual Cabinet Members' Scheme of Delegation provides for those decisions that may be taken by a single Member alone.

A Cabinet Member may decide that a particular issue is such that it should be referred to the Cabinet, and the Cabinet Member should refer such issues to the Leader of the Council/Chair of the Cabinet in the first instance.

Similarly, the fact that an executive function stands delegated to a single Cabinet Member does not preclude the Cabinet or another Executive body from exercising the function

itself, subject to the function being within the general remit of the body and any legal requirements.

Decision making – relevant considerations

Having satisfied themselves as to their ability to take a decision, the Cabinet Member or Chief Officer must determine the facts upon which the decision must be based and consider, where relevant, the following matters:

a) any legislative requirements;
b) any Council policy, strategy, plan, initiative or procedure relating to the issue;
c) any relevant national or regional guidance;
d) the available options;
e) the staffing, financial and legal implications;
f) the views/advice of any appropriate Statutory Officer;
g) the views of any Ward Member(s) where the report relates to a particular area of the Borough;
h) any consultations undertaken, the views of any consultees and a summary of any other representations received;
i) any implications for any other areas of the Council's activities, including the views of any Chief Officer whose services may be affected and whether any consultation has taken place with that Chief Officer; and/or
j) the Cabinet Member's responsibility within which the issue falls and whether any consultation with the Cabinet Member has taken place.

Chief Officers are also responsible for ensuring that consultation is undertaken where appropriate, including

- when they are aware that the decision is likely to be controversial,
- when further consultation and public participation would be appropriate.

In any case, Chief Officers should prepare a report to the corporate standard for consideration in support of decision making and have regard to the requirements of Access to Information Procedure Rule 7.

Key Decisions – Providing Notice before taking the Decision

Prior to taking a Key Decision, notice of the intention to take that decision must have been published on the Executive's Key Decision Document for at least 28 days, in accordance with Access to Information Procedure Rule 12 or, if less notice is being given, in accordance with either the General Exception or the Special Urgency Provisions at Access to Information Procedure Rules 13 and 14 respectively.

Decision making and interests

It is important that where Members or Officers involved in making decisions have a registrable interest this is declared on the Delegated Decision Form to preserve the

probity and integrity of the process. Should a Member have a disclosable pecuniary interest or another interest detailed in the Code of Conduct in a decision that Member should not make that decision. Similarly, should an Officer have an interest which might be regarded as prejudicing their consideration of the matter in the public interest, they should not take that decision. (See the 'Challenges' section below).

Members and Officers should pay due regard to their respective Codes of Conduct at Part 5 of the Council's Constitution and should, if necessary, seek advice from the Monitoring Officer as to their interests and, in the event that an individual cannot take a particular decision, who should determine that matter instead.

Decision Making – Recording the Decision

The Chief Officers will maintain a record of all Key Decisions and Principal Decisions and ensure that these decisions are recorded on the Council's decision recording system, including the report upon which each Decision was made, subject to any requirement for confidentiality.

The Chief Executive will, in accordance with Access to Information Procedure Rules, ensure that the record of decisions is available for public inspection on the Council's website and the public has the right to be provided with a copy of any part of that record upon payment of a reasonable copying and administrative charge.

It is essential that the contents of the Delegated Decision Form are clear in conveying the substance of the decision taken. It is not be sufficient to state that the recommendations in a report were agreed.

Departments must maintain a central record of all delegated key decisions with copies of the relevant documentation for a six year period.

Even where there is not a requirement to publish a record of decisions, Chief Officers and such staff as they so designate, are responsible for retaining a record of those Administrative Decisions which they and Cabinet Members take and the reasons for such decisions. The record should be sufficient for audit and evidential purposes (against the eventuality of evidence being required for consideration at/by Judicial Review, Employment Tribunal, Ombudsman, District Audit or other proceedings or investigation).

In addition to the requirement to publish Key and Principal Decisions, Chief Officers are also responsible for ensuring that all those who need to know are informed promptly of the decision.

Decision Making - Giving Reasons

While giving reasons is an accepted 'best practice' principle of good administration, doing so can also be

- a statutory requirement in respect of executive decisions;

- a requirement of the Courts when considering a Judicial Review;
- a requirement of Regulators when considering the Council's actions in respect of regulatory functions, such as the Planning Inspectorate or, in respect of Council and executive functions generally, the Local Government and Social Care Ombudsman; and
- in circumstances where the matter is an interest highly regarded by the law, such as personal liberty, a requirement for fairness to be given as of right, at least for particular decisions.

Clear reasons must be given in the record of Key and Principal Decisions of Cabinet Members and Officers and should be apparent in the Administrative Decisions made. Where reasons are given, these generally cannot be 'corrected' or altered after the time they are given.

If a decision is challenged it is vital to be able to demonstrate that the proper processes were complied with. To be able to do this it is essential that records are kept so they can be referred to and produced if necessary.

These records should include written notes of all relevant meetings and discussions and copies of all papers considered in making a decision. It is best practice to keep a clear note of all considerations taken in to account with reasons why they were considered relevant and why matters not considered were thought not to be relevant.

Where reasons are required, they must be adequate and intelligible. Failure to give reasons may lead to the inference that a decision is unlawful. (See the 'Challenges' section below).

Accountability

Ultimately, Cabinet Members and Officers are accountable to the Council for any decision they make. They may be required to report to, and to answer questions from, an Overview and Scrutiny Committee in respect of any decision made using their delegated powers.

Challenges to Decisions of the Council or of the Executive

Decisions are open to challenge and review in a number of ways and it is therefore important to be able to demonstrate that they have been taken in a manner that avoids legitimate challenge. It is important to remember that decisions which are overturned will invariably have been successfully challenged not because they were 'wrong' but because they have been reached following a flawed process.

The principal avenues for challenge to a decision are –

a) Overview and Scrutiny Committees – Elected members may 'call-in' executive decisions for the Cabinet a, cabinet Committees, Sub-Committees or Boards, or key

decisions taken by Officers, or may seek to review Officers' decisions more generally.

b) The Council's Complaints System – Members of the public may challenge a decision through the Council's formal complaint procedure.

c) The Local Government and Social Care Ombudsman – the last stage of the complaints process, investigating complaints of injustice arising from maladministration from the public about Councils and some other public bodies. The law does not define 'maladministration', but it means that there has been a fault in the way the Council has or has not done something.

d) The External Auditor – undertakes the audit of the Council's accounts and holds a power to carry out examinations into the economy, efficiency and effectiveness with which the Council has used its resources.

e) Designated Officers - the Council's Head of Paid Service, Chief Finance Officer and Monitoring Officer all have specific statutory duties which involve monitoring and regulation of different aspects of the Council's affairs.

f) The European Convention on Human Rights – due regard needs to be paid to the Convention, particularly when decisions affect the rights of any individual.

g) Central Government - controls many of the activities of local government, for example the Council will be bound by ministerial directives and regulations in some areas, and certain decisions may require the approval of a government minister or civil servant. Some of the decisions can be appealed to the courts by a minister or a government department.

h) The Courts - by a process known as Judicial Review, the courts can examine decisions made by local authorities. The main findings of the Courts against the Council in the case of a judicial review are likely to be of –

   (i) Illegality (ultra vires) - although democratically elected, the Council is not a sovereign body and can only do things authorised by Parliament. If a statutory power is conferred on the Council for one purpose, it is illegal if used for another;

   (ii) The relevancy or irrationality principle - the court may investigate the action of the Council to see whether the Council has taken into account matters which it ought not to have taken into account, or whether it has refused to take account of matters which it ought to have. A decision can be challenged if a conclusion has been reached that is so unreasonable that no reasonable authority could ever have come to it, or if a decision so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it

   (iii) Unfairness or procedural impropriety (breach of natural justice) - so far as exercise of local authority power is concerned, procedural impropriety consists, principally, of

   - Bias - usually occurs in one or more of the following, namely where:
     - a disqualified person participates, such person is one who has a direct pecuniary interest in the subject matter.
     - the case is prejudged.
     - an interested party has improper access to the decision maker.

- Procedural unfairness – the conduct of any hearing must be fair and a party is entitled to put their case fully. However, fairness will not necessarily require an oral hearing or a legal representation.
- Breach of legitimate expectation - confers procedural protection on a party where a local authority has either given an express assurance that it will deal with a matter in a particular way, or where it has adopted a past practice to that effect. In such cases the courts have consistently held that no adverse decision may be taken without first giving the affected party the opportunity of making representations.
- Failure to give reasons - where a statute requires a local authority to give reasons for its decision there is a clear duty to do so. In many cases, however, the courts apply a duty to give reasons even where the statute is silent.

There are a number of areas of action and decision-making by local authorities which typically give rise to challenge, and which fall under one or more of the above main heads. Many overlap with one another. They include:

- failure to take into account relevant considerations, either as required by law or such as would be taken into account by any reasonable person.
- taking into account irrelevant considerations.
- acting so unreasonably such that no reasonable body of persons could have so acted.
- failure to direct itself properly in law.
- exercising a power for a purpose for which it was not conferred
- acting in bad faith or for an improper motive. fettering or failing to exercise discretion, through improper delegation.
- adherence to a fixed policy.
- failure to consult or to consult properly, either as a matter of statute or legitimate expectation.
- failure to act fairly or observe procedural requirements.
- failure to comply with the rule that local government finance must be conducted on an annual basis.
- failure properly to have regard to the extent to which their own resources can be taken into account in deciding whether to make provision.

Giving proper consideration to the matters raised in the ‘relevant considerations’ and ‘interests’ sections above should ensure that most, if not all, the above areas of challenge can be avoided.

12. JOINT ARRANGEMENTS

Oldham Council has entered into, or as prescribed by legislation is party to, a number of Joint Arrangements with other local authorities.

Greater Manchester Combined Authority

Oldham Council is a Constituent Council of the Greater Manchester Combined Authority (GMCA) established under the provisions of the Local Democracy,

Economic Development and Construction Act 2009. The Constitution of the GMCA is available here - https://democracy.greatermanchester-ca.gov.uk/documents/s4351/GMCAConstitution2019.pdf

Greater Manchester Police and Crime Panel
The Police and Crime Panel is a joint committee of the Constituent Councils of the GMCA established under the provisions of the Police Reform and Social Responsibility Act 2011. The role of the Panel is contained within the Constitution of the GMCA.

Bee Network Committee
The Bee Network Committee (formerly Greater Manchester Transport Committee) is a joint committee of the Constituent Councils of the GMCA, the GMCA and the Mayor of Greater Manchester established under powers contained in the Local Government Act 1972. The Operating Agreement and Terms of Reference for the Committee are available here - https://committees.oldham.gov.uk/documents/s104828/GM%20Transport.pdf

Peak District National Park Authority
Oldham Council is a Constituent Council of the Peak District National Park Authority established under the provisions of the Environment Act 1995. The Standing Orders of the Authority are available here - https://democracy.peakdistrict.gov.uk/documents/s33354/Full%20Copy%20of%20Standing%20Orders%20December%202019.pdf

AGMA Executive Board
Pursuant to powers in the Local Government Act 2000, the Council has entered into a local agreement with the other nine Councils in the Greater Manchester area to form a Joint Committee, established as the (Joint Arrangements) Committee and called the AGMA Executive Board (AGMA being the acronym for the Association of Greater Manchester Authorities). The AGMA Constitution is available here - https://www.greatermanchester-ca.gov.uk/media/1337/agma_constitution_june12.pdf

Health Scrutiny – Pursuant to powers in the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, the Council has entered into local arrangements and delegated aspects of the health scrutiny function to joint bodies where the function is linked to the scrutiny of NHS organisations which cover more than one local authority area, including Oldham.

- **Greater Manchester Joint Health Scrutiny Committee**
  Terms of Reference available here - https://www.greatermanchester-ca.gov.uk/media/1348/joint-health-scrutiny-committee-terms-of-reference.pdf
- **Joint Health Overview and Scrutiny Committee for the Pennine Care NHS Trust**

Terms of Reference available here -
https://www.bury.gov.uk/CHttpHandler.ashx?id=2199andp=0

- **Joint Health Overview and Scrutiny Committee for NHS Northern Care Alliance**
  Terms of reference available here –
  https://committees.oldham.gov.uk/mgCommitteeDetails.aspx?ID=609

13. THE LEADING OLDHAM PARTNERSHIP

The Leading Oldham Partnership is where Elected Members, public sector Chief Executives, and business, community and voluntary sector leaders responsible for leading Oldham at the Borough level, across Greater Manchester, and beyond.

The Board is able to hold all parts of the Leading Oldham Partnership to account for the delivery of the shared objectives and ambitions .

The Board is further supported by a range of other partnerships and networks of the Leading Oldham Partnership, be they statutory or voluntary, all working to bring the benefits of collaborative and co-operative working. These include, for example, the Community Safety Partnership, the Oldham Housing Investment Partnership, and the Adult and Children's Safeguarding Boards.

At Greater Manchester level, the Partnership focuses efforts and energy to help drive Greater Manchester forward as a whole, whilst enabling local solutions and ensuring Oldham benefits from any collective Greater Manchester-wide growth and reform.

Delivering Oldham and Greater Manchester Strategy ambitions

The Leading Oldham Partnership is responsible for leading Oldham at the neighbourhood level, borough level and at the Greater Manchester level and beyond.

The Greater Manchester Strategy sets the broader framework within which the Partnership should focus its efforts and energy to help drive Greater Manchester forward as a whole, whilst also enabling the Leadership Board to develop local solutions and ensure that Oldham benefits from any collective Greater Manchester-wide growth and reform.

The Partnership will also ensure that Oldham key transformational and reform ambitions and programmes are on track and supporting the wider Oldham ambition, and not just confined to individual sectors.

Oldham will continue to influence Greater Manchester and the national discussion on developing co-operative approaches to public services and continue to ensure a focus on designing public services around people and communities rather than within organisational boundaries.

The Board will also deliver on the growth ambitions for the Borough and Greater Manchester (as outlined in the Oldham Work and Skills Plan) with a focus on investment, skills and good quality jobs for Oldham people. It will also seek to maximise its collective economic power and influence as employers in Oldham.

Membership

The Board comprises of Oldham leaders across the public, private, community and voluntary sector as follows:

- Leader, Oldham Council
- Chief Executive, Oldham Council
- Chair of the Oldham Health and Wellbeing Board
- Executive Director of Place (Deputy Chief Executive), Oldham Council
- Director of Growth, Oldham Council (as appropriate)
- Leader of the Opposition, Oldham Council
- Chair/deputy of Oldham Business Leaders Group

Chief Executive Officers of:

- Action Together
- Citizens Advice
- Greater Manchester Police (Oldham Division)
- MioCare
- NHS Health Representatives
- Oldham Community Leisure Trust
- First Choice Homes
- Greater Manchester Fire and Rescue Authority
- Greater Manchester Probation/Community Rehabilitation Company

The Partnership may also invite other partners and individuals to join the Board and contribute to meetings where they have a clear role to play.

Part 4A
Council Procedure Rules

PART 4A - COUNCIL PROCEDURE RULES

Matters reserved to Council are outlined in the Council Terms of Reference at Section 3 to Part 3 of this Constitution.

1. ANNUAL MEETING OF THE COUNCIL

1.1 **Timing and Business**

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place on a date to be set by Council.

1.2 The annual meeting will:

a) elect a person to preside if the Mayor or Deputy Mayor is not present;
b) elect the Mayor;
c) appoint the Deputy Mayor;
d) approve the Minutes of the last meeting;
e) deal with matters which the Mayor considers to be urgent business;
f) receive any communications from the Mayor relating to the business of the Council;
g) receive any petitions relating to the business of the Council (all petitions to be dealt with in accordance with the Council's Petitions Protocol);
h) elect the Leader (if required);
i) receive the report of the Leader on executive arrangements;
j) decide the allocation of seats to political groups in accordance with the political balance rules;
k) establish at least one Overview and Scrutiny Committee, a Licensing Committee (or such Committee as meets the requirements of the Licensing Act 2003) and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions;
l) decide, within any statutory restriction, the size and terms of reference for those Committees;
m) appoint to those Committees, including substitute Members;
n) appoint a Chair for those Committees;
o) appoint to outside bodies, except where appointment to those bodies has been delegated by the Council or are executive appointments;
p) if not previously determined by Council, approve a programme of ordinary meetings of the Council for the year;
q) consider notices of Administration business in the order in which they have been received by the Chief Executive in accordance with Procedure Rules 2, 8 and 12 (time limit – 30 minutes);

r) consider motions of opposition business in accordance with Procedure Rules 2, 8 and 12 (time limit – 30 minutes);
s) agree amendments to and/or re-affirm the Constitution, including the Council (non-executive) Scheme of Delegation; and
t) consider any business set out in the notice convening the meeting.

2. ORDINARY MEETINGS

2.1 Timings and Business

2.1.1 All ordinary meetings shall normally be held at 6.00pm and shall conclude at 9.30pm unless some other time fixed by statute or specified in the summons. The Mayor shall determine whether meetings where significant tranches of Budget proposals or major communications are considered shall conclude at 10.00pm.

2.1.2 Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting or by the Council at an ordinary meeting preceding the annual meeting.

2.1.3 Subject to any variation in the order of business under Procedure Rule 12.4(c) or when the Mayor, in consultation with the Leaders of the political groups of the Council, considers it appropriate to move an officer report higher on the agenda, the order of business at every ordinary meeting of the Council will be:

a) To choose a person to preside if the Mayor and Deputy Mayor are not present;
b) To approve as a correct record the Minutes of the last meeting of the Council; provided that, if a copy has been circulated to each Member of the Council not later than the date of issue of the Summons to attend the meeting, they will be taken as read;
c) To receive any declarations of interest from Members;
d) To deal with matters which the Mayor considers to be urgent business.
e) To receive any communications from the Mayor relating to the business of the Council. At the final ordinary Council meeting of any municipal year, the Mayor will indicate which members have provided notice that they are not returning as members in order to give other members the opportunity to address the meeting on their retirement;
f) To receive any petitions relating to the business of the Council (all petitions to be dealt with in accordance with the Council's Petitions Protocol); **(time limit - 20 minutes)**
g) To consider a presentation or resolution on a specific topic of relevance to the Borough, from the Youth Council; **(time limit – 20 minutes)**;
h) Public Questions **(time limit 15 minutes**) (see Council Procedure Rule 10)
i) Leader and Cabinet reports and questions **(time limit 90 minutes**). To receive reports on updates on main activities in the portfolio area of Leader and Cabinet members and receive questions from non-executive

members. (Each portfolio holder section will last a maximum of 10 minutes with 6 minutes permitted for questions from non-executive members). The Leader section will receive the minutes of the Cabinet and Greater Manchester Combined Authority and Executive meetings minutes .To also receive annually a list of any urgent key decisions taken since the last annual report.) In the Leader section, the Leader of the main opposition group is entitled to ask 2 questions and the Leader of the next largest group may ask 1 question.

j) To consider Administration business. To consider a maximum of two notices of motion in the order in which they have been received by the Chief Executive; **(time limit - 30 minutes)**

k) To consider Opposition business. The order of consideration of Opposition motions is in accordance with group size with one motion considered from each group sequentially .The main opposition group motion is limited to 15 minutes . The motion from the next largest group is limited to a maximum of 10 minutes . Other motions submitted to be considered within the permitted period of 30 minutes. (**time limit – 30 minutes)**

l) Other business (if any) specified in the Summons, including matters of call-in and any matters expressly required by statute. Without the suspension of Council Procedure Rules, the Chair of the Audit Committee may speak with permission and if requested when Council is considering a report from the Chair of the Audit Committee. In considering a report on Actions from Council, each report will cover actions and responses to Council motions in the 12 months preceding the meeting and any update and response received in connection with motions beyond a 12 month period.

2.1.4 Any period of time not utilised in relation to items (a) – (k) in section 2.1 above is to be distributed to items (l).

2.1.5 The Council Budget Meeting shall be a sole item meeting, except that a communications item may be included.

2.1.6 If time has expired on any motion section, any motion under debate will be put to the vote and any outstanding motions will be moved and seconded and a vote taken.

3. EXTRAORDINARY MEETINGS

3.1 Calling Extraordinary Meetings

An extraordinary meeting of the Council may be called at any time by:

a) the Council;

b) the Mayor;

c) any five Members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition; or

d) the Monitoring Officer or the Chief Finance Officer in pursuance of their statutory duties.

3.2 **Business**

Any request or requisition for an Extraordinary Meeting of the Council shall specify the reason for the calling of the meeting and give notice of a motion to be debated, unless the purpose is to receive reports or adoption of recommendations of Committees or Officers or any resolutions following from them. No business other than that specified in the summons to the meeting may be considered at an extraordinary meeting.

4. NOTICE AND SUMMONS TO MEETINGS

4.1 The Chief Executive or nominated Officer shall give notice to the public of the date, time and place of any meeting in accordance with the Access to Information Procedure Rules at Part 4B of this Constitution. At least five clear working days before a meeting, the Chief Executive or deputed Officer shall send a summons by post or by electronic mail to every Member of the Council or leave it at their usual place of residence. Every Member of the Council will be served with a copy of the summons prior to the meeting, unless they give written notice to the Chief Executive or nominated Officer that they do not wish to receive a physical copy. The summons shall give the date, time and place of each meeting and specify the business to be transacted and shall be accompanied by any reports to be considered.

4.1A For all purposes of these Rules and the Constitution in general, the terms "notice", "summons", "agenda", "report", "written record" and "background papers" when referred to as being a document that is:

a) "open to inspection", shall include for these and all other purposes as being published on the website of the Council; and
b) to be published, posted or made available at offices of the Authority, shall include publication on the website of the Authority.

5. CHAIR OF MEETING

5.1 The Mayor shall preside at meetings of the Council and may exercise any power or duty of the Chair in ensuring the proper conduct of the meeting. If the Mayor is absent, the Deputy Mayor shall preside. If both are absent, the members of the Council in attendance shall appoint one of their number to Chair that meeting.

5.2 Whenever the Mayor speaks during a debate, or should the Mayor stand at any point during a meeting, or should the Mayor declare "Mayor standing" at any meeting being held wholly or in part by remote means, any Member speaking or standing shall fall silent, and the meeting shall fall silent also.

6. MEMBERS SPEAKING TO THE COUNCIL

6.1 A Member shall speak to address the Council only when called upon by the Chair of the meeting. A Member called to speak shall, if present at the physical location of a meeting and able, stand when speaking and shall address the Mayor. If two or more Members indicate they wish to speak, the Mayor shall call on one to speak.

7. QUORUM

7.1 No business shall be transacted at a meeting of the Council unless at least one quarter of the whole number of Members of the Council are present. If, at the expiration of 15 minutes after the time for which any meeting is called, a quorum is not present then the Mayor or in his/her absence the Deputy Mayor or in the absence of both, the Monitoring Officer or his/her representative shall state that no meeting shall take place. If, during a meeting, a quorum is questioned and the Mayor, after counting the number of Members present, declares that there is not a quorum present, the meeting shall stand adjourned for an appropriate period to be determined by the Mayor.

8. DURATION OF MEETING

8.1 **Interruption of the Meeting**

Unless otherwise stated on the summons or provided for in accordance with Procedure Rule 2.1, at 9.30pm the Mayor will cease all debate and any Member speaking must immediately sit down. The Mayor will call for the vote immediately on the item under discussion. The vote will then be taken in the usual way without any further discussion.

8.2 **Motions and Recommendations Not Dealt With**

If there are other motions or recommendations on the summons that have not been dealt with by 9.30 pm or such other time arising from Procedure Rule 8.1 above and the mover indicates that he/she wishes it to be determined at the current meeting the Mayor shall then establish whether there is any opposition to the resolution. If that be the case then the Mayor will take one speech from the mover and one other member in opposition before the vote is taken. Any other outstanding motions or amendments will be moved and seconded and the vote will be taken without further debate until each outstanding matter has been concluded.

8.3 **Recorded Vote**

If during this process a recorded vote is requisitioned in accordance with Procedure Rule 16.3, the vote will be taken immediately.

9. SIGNING OF MINUTES

9.1 As soon as the Mayor has put the question that the Minutes of the last preceding meeting of the Council be signed as a correct record, any Member of the Council may put to the Mayor any question which has reference to their accuracy and no motion or discussion shall take place upon the Minutes, except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or if it is raised, then as soon as it has been disposed of, the Mayor shall sign the minutes.

9.2 At an extraordinary meeting of the Council the minutes of the preceding meeting need not be signed and may instead be signed at the next ordinary meeting.

10. PUBLIC QUESTIONS

10.1 **Notice of Public Questions**

Written notice of the public question must be delivered to the Head of Democratic Services no later than noon on the day prior to the Full Council meeting (12 noon two working days before the meeting for all other Council Committees). Delivery includes the submission of questions via electronic media. Questions can only be submitted by those who reside or own a business within the Borough and the notice of the public question must include the questioner's name and full postal address.

10.2 **Scope of Questions**

Questions can be asked of Cabinet Members. Questions may only be asked on services provided by or commissioned by the Council. Questions may not be accepted if the Chief Executive ,in consultation with the Monitoring Officer, considers that the question:

a) is not about a matter for which the Council provides or commissions services;
b) requires or is likely to lead to the disclosure of exempt or confidential information;
c) is defamatory, offensive , factually incorrect or uses inflammatory language;
d) is substantially the same as a question which has been asked at a Council meeting in the past six months;
e) is formed to make a statement rather than to receive information.

The question must not exceed more than100 words.

10.3 **Order of Questions**

Questions from members of the public will be taken in the order received. Multiple questions by the same member of the public will only be considered after questions submitted singly, and then in the order of all second questions submitted, then all third questions submitted and so on.

10.4 **Asking the Question at the Meeting**

The Mayor will advise of the name of a questioner and will either read out the question or ask for the question to be read out to the Council.

10.5 **Answers to Questions**

The relevant Cabinet Member or their Deputy may respond and the time allowed for responses to be limited to a maximum of two minutes each.

10.6 **Record of Questions**

Notices of questions will be dated and numbered as received and be open to public inspection.

10.7 **Time Limit on Public Questions**

The time allowed for public questions will be a maximum of 15 minutes.

11. QUESTIONS BY MEMBERS

11.1 **Questions to Leader and Cabinet Members**

Advance notice of questions to the Leader and Cabinet Members is not required. However, if a detailed or technical answer is expected at the meeting, notice should be given to the Chief Executive by noon at least two working days before the date of the meeting of Council. The time allowed to put the question shall be limited to a maximum of two minutes for each question.

11.2 **Answers to Questions**

An answer may be provided in the form of: a)

A direct oral answer;

b) A reference to a publication of the Council containing the desired information; or

c) In the case of a detailed or technical response, a written response. The time allowed for responses is limited to a maximum of two minutes for each question.

11.3 **Supplementary Questions and Observations**

After a question has been responded to, a Member may ask one supplementary question or make an observation which must relate to the original question or response.

12. NOTICES OF MOTION

12.1 **Notice**

Except for Motions which can be moved without notice under Procedure Rule 12.4, written or electronic notice of every motion, including those motions to be submitted by the Youth Council, signed by at least one Member, must be delivered to the Chief Executive no later than noon, seven working days before

the meeting of Council. Such notices will be dated and numbered as received, filed in the office of the Chief Executive and be open to public inspection.

12.2 **Scope**

Every notice of motion will be relevant to some matter over which the Council has an influence.

12.3 **Motions not accepted**

If notice is given of any motion which, in the opinion of the Chief Executive is out of order, illegal, irregular or improper, the Chief Executive, in consultation with the Mayor and Monitoring Officer, shall determine whether to accept its inclusion on the agenda. If a motion is not deemed acceptable the Chief Executive shall inform the member who gave notice of the item.

12.4 **Mover of Motion**

12.4.1 No motion of which notice has been given in accordance with Procedure Rule 12 shall be moved in the absence of the Member of the Council in whose name it stands, unless he or she has given their authority in writing to the Chief Executive that the business shall be taken over by some other Member. Unless moved in accordance with this Procedure Rule or postponed by leave of the Council, such motion shall be considered as dropped and shall not be again moved without fresh notice.

12.4.2 A Member shall not speak more than once on any motion except to move or speak to an amendment, except in the exercise of the right of reply, or on a point of order, or by way of personal explanation.

12.4.3 **Seconder of Motion**

No motion of which notice has been given in accordance with Procedure Rule 12 shall be seconded in the absence of the Member of the Council in whose name it stands, unless he or she has given notice in writing to the Chief Executive that the business shall be seconded by another Member.

12.4.4 **Motions without Notice**

The following motions may be moved without notice:

a) to appoint a Chairman of the meeting at which the motion is made;
b) motions relating to the accuracy of the minutes
c) to change the order of business in the agenda;
d) to refer something to an appropriate body or individual;
e) to appoint a Committee or an individual arising from an item on the summons;
f) to receive reports or recommendations of the Executive, Committees or officers and determine any resolutions following from them;
g) to withdraw a motion;
h) to proceed to the next business;

i) that the question be now put;
j) to adjourn a debate;
k) to adjourn a meeting;
l) to extend the time limit for speeches as detailed in Procedure Rule 14.5;
m) that the meeting continue beyond 9.30 pm or such other time as provided for under Procedure Rule 8.1 above;
n) to suspend a particular Procedure Rule;
o) that the Council does resolve itself into Committee;
p) to exclude the public and press in accordance with the Access to Information Procedure Rules;
q) to give the consent of the Council where the consent of the Council is required by the Constitution.

12.5 **Alteration of Motions**

A Member may alter a motion which he/she has proposed, or of which notice has been given, with the consent of the seconder and of the Council. The consent of the meeting will be signified without discussion.

12.6 **Motions Contravening Financial Procedure Rules**

12.6.1 Any motion or report submitted to the Council which, if carried, would increase the Council's net revenue or capital budget or might otherwise contravene Financial Procedure Rules shall stand adjourned without debate and be referred to the Cabinet to receive a report on the detailed financial implications. When the Council reconvenes to consider the motion or report it shall receive the recommendation of the Cabinet on the matter before making a decision on the motion or report and on whether to effect any change to the Council's approved Budget.

12.6.2 In the event of urgency, the Council may consider such an item without delay on receipt of a report from the Cabinet Member with responsibility for Finance as to the financial implications.

12.6.3 Where a report of the Cabinet contains a recommendation at variance with that of another body, the Mayor will call upon the Leader of the Council to move the adoption of the relevant recommendation of the Cabinet. If the matter is then settled or disposed of by the Council, no further discussion on the matter shall take place at that Council meeting and the alternate recommendation shall fall.

13. NOTICE OF AMENDMENTS

13.1 An amendment to any matter contained within the summons to the meeting shall not be discussed unless the mover has given written or electronic notice of the text of the amendment in writing to the Chief Executive not later than noon the day preceding the meeting.

13.2 Where notice has been given of more than one amendment to a recommendation or a motion under Procedure Rule 12.1, those amendments shall be considered and put in the order of receipt of the notice.

13.3 It is not permissible to amend an amendment.

13.4 Amendments may only be merged or composited with the approval of the proposer and seconder of the amendment.

14. RULES OF DEBATE

14.1 No Speeches until Motion or Amendment Seconded

A motion or amendment shall not be discussed unless it has been proposed and seconded.

14.2 Right to Require Motion in Writing

Unless notice of the Motion has already been given in accordance with Procedure Rule 12 or the Motion is to be moved under Procedure Rule 12.4 it shall be reduced to writing and handed to the Mayor before it is further discussed or put to the meeting.

14.3 Seconder's Speech

Any Member who seconds a motion or amendment without making a speech may reserve his/her right to speak at a later period of the debate.

14.4 Content of Speeches

A Member shall direct their speech to the question under discussion or to a point of personal explanation or to a point of order.

14.5 Length of Speeches

14.5.1 Speeches - No Member may speak for longer than four minutes on any motion or amendment. The Council may consent to one extension of thirty seconds per speech.

14.5.2 Replies - A Member replying to debate on any motion or amendment may speak for six minutes. The Council may consent to one extension of one minute per reply.

14.6 Amendments to Motions

14.6.1 An amendment to a motion must be relevant to the motion and will either be:

a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
b) to leave out words;
c) to leave out words and insert or add others (It is not permissible to delete a motion in its entirety and replace with a differently worded amendment); or

d) to insert or add words; providing the effect of b) and d) is not to negate the motion or introduce a new proposal into the motion.

14.6.2 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

14.6.3 If an amendment is rejected, other amendments may be moved on the original motion.

14.6.4 If an amendment is carried, the motion as amended, will take the place of the original motion and will become the substantive motion upon which any further amendment may be moved.

14.7 **Withdrawal of Motion**

A Member may withdraw a motion which he/she has proposed or of which notice has been given with the consent of the seconder and of the Council, the meeting's consent will be signified without discussion. No member shall speak on the motion after the proposer has asked permission for its withdrawal, unless such permission is refused.

14.8 **Right of Reply**

a) The mover of a motion shall have a right of reply at the close of the debate on the motion, immediately before it is put to the vote.
b) If an amendment is proposed, the proposer of the original motion is entitled to reply at the close of the debate on the amendment.
c) The proposer of the amendment shall have a right to reply at the close of the debate on the amendment immediately before it is put to the vote.
d) After every right of reply a decision shall be taken without further discussion.
e) A Member exercising a right of reply shall not introduce a new matter.
f) If any business is moved by the Leader of the Council at the closing of the debate the main Opposition Party Group Leader shall have a right to speak prior to the Leader exercising their right of reply.

14.9 **Motions which may be Moved During Debate**

When a motion is under debate, no other motion shall be moved except the following procedural motions: a) to withdraw a motion;

b) to amend a motion;
c) to proceed to the next business;
d) that the question be now put;
e) to adjourn a debate;
f) to adjourn a meeting;
g) to resolve into a Committee in accordance with Procedure Rule 12.4;
h) to refer the subject of debate to Cabinet or an Overview and Scrutiny Committee;
i) to exclude the press and public in accordance with the Access to

Information Procedure Rules;

j) to not hear further, or to exclude from the meeting, a member named under Procedure Rule 17.

14.10 **Closure Motions**

14.10.1 A Member who has not spoken on the matter before the Council may, at the conclusion of a speech of another Member, move without comment:

"That the matter be now put";
"That the debate be now adjourned";
"That the Council proceeds to the next business";
"That the Council does now adjourn"; or
"That *the subject of debate* be referred to the Cabinet" or "to an Overview and Scrutiny Committee", as the case may be"

14.10.2 On seconding of any of the above, the Mayor will, if he/she considers that the matter before the meeting has been sufficiently discussed, put that closure motion to the vote. If such a motion is carried, the matter before the meeting shall be put to the vote, subject to the right of reply under Procedure Rule 14.8, or the debate shall be adjourned, or the Council shall proceed to the next business or the Council shall stand adjourned, or the business shall stand referred, as the case may be.

14.11 **Points of Order or Personal Explanation**

14.11.1 A Member may raise a point of order or make a personal explanation at any time.

14.11.2 A point of order is an objection submitted to the Mayor claiming some irregularity in the Constitution or the conduct of the meeting or a breach of the law such as:

a) the use of irrelevant or improper language;
b) a quorum is not present;
c) an amendment negates the motion before the meeting;
d) the motion is ultra vires or not within the scope of the notice given;
e) no question is before the meeting; or
f) these Procedure Rules are not being complied with.

14.11.3 A point of order relates to procedure only, and not the arguments or principals or political views put forward, nor with the truth or falsehood, correctness or incorrectness of statements made in the course of debate. A Member raising a point of order may not make a speech beyond clarification of the point of order. Any member raising a point of order shall state at the outset the Procedure Rule considered to have been infringed. Every point of order shall be decided by the Mayor, whose ruling shall be final and not open to discussion, before the debate on the business proceeds.

14.11.4 A personal explanation shall be confined to clarifying briefly some material part of a former speech by that Member at the same meeting which may have been

misunderstood. A personal explanation may also enable a Member to refute or correct a statement attributed to him/her in any action he/she may have taken. The ruling of the Mayor on a point of order or on the admissibility of a personal explanation shall be final and may not be discussed.

15. RESCISSION OF PRECEDING RESOLUTION

No question or matter which within any Municipal Year has been twice decided by the Council in the same way shall, in the same Municipal Year, again be submitted for consideration, and this Procedure Rule shall not be evaded by the substitution of any motion differently worded, but, in principle, the same.

16. VOTING

16.1 Majority

Unless this Constitution or the law provides otherwise, any matter will be determined by a simple majority of those Members voting and present in the room at the time the question was put either by
a show of hands, or by use of the Council's electronic voting system if any, or by affirmation of the meeting if there is no dissent;

16.2 Procedure for Electronic Voting

a. The Mayor/Chair will confirm that all are clear about the motion to be voted upon and declare when the vote is open.
b. The vote will be open for 20 seconds and Members must cast their vote in this time, using the desk unit to buttons to vote whether they are for the motion/question/decision, against the motion/question/decision, or to abstain from voting.
c. Members can change their vote while the vote is open. However, their vote cannot be altered once the vote has been closed.
d. The Mayor/Chair will announce that the vote is closing and confirm the vote is closed after 20 seconds have passed.
e. The outcome of the vote will be displayed on television screens in the Chamber. The clerk will check the number of votes cast does not exceed the number of Members in attendance and then the Mayor/Chair will announce the outcome of the vote.
f. The vote will only take effect once the outcome is confirmed by the Mayor/Chair.
g. Where a simple majority of those Members voting and present in the room at the time the question was put is required (i.e. there is no request for a recorded vote), the outcome of the individual electronic votes will not be published in Minutes, but will be displayed on the television screens in the Council Chamber so that those present can see how the majority decision was reached..
h. The Mayor/Chair may decide at any time to discontinue use of the electronic voting system if satisfied that it is not working correctly. If the Mayor/Chair considers that there has been any malfunction of the equipment or any

incorrect use of it, s/he may require or allow the vote to be retaken, either electronically or by show of hands.

i. If the vote is tied and the Mayor/Chair needs to make a casting vote, the casting vote shall be made verbally.

j. If a Member vacates the Council Chamber during the debate, they must remove their voting card from the slot, and only replace this when they re-enter the Council Chamber.

16.3 **Chairman's Casting Vote**

In the case of equality of votes, the Mayor shall have a second or casting vote.

16.4 **Recorded Vote**

If required by law or on the requisition of any member supported by five other Members who signify their support by show of hands before the voting on any question, the vote shall be recorded as to how each Member present and voting gave their vote. The procedure outlined in Paragraph 16.2 shall be followed for electronic voting, or where an electronic system is not working correctly or unavailable, the Mayor/Chair will take the vote by roll call. Where recorded votes are requested, the Minutes of the Council/Committee will record whether that person cast his or her vote for the question or against the question, or whether they abstained from voting.

16.5 **Recorded Vote at Budget Council**

Immediately after any vote is taken at a budget meeting of the Council there must be recorded in the minutes of the proceedings of that meeting the names of the members who cast a vote for the decision or against the decision or who abstained from voting . " Budget decision meeting " means a meeting of the Council at which it makes a calculation under the Local Government Finance Act 1992 or issues a precept under Chapter 4 of Part 1 of that Act. . The Procedure outlined in Paragraph 16.2 and 16.4 shall be followed for recorded votes at the budget meeting of the Council.

16.6 **Individual Member Recorded Vote**

Where, immediately after a vote is taken at a meeting of the Council, any Member so requires, the Minutes of Council will record whether that person cast his or her vote for the question or against the question, or whether he/she abstained from voting.

16.7 **Voting on Appointments**

16.7.1 Where there are more than two persons nominated for any position to be filled by the Council, and of the votes given there is not a majority in favour of one person, the name of the person receiving the least number of votes of those present and voting shall be struck off the list and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one person.

16.7.2 Where there are at any time two or more vacancies on the same body to be filled by the Council and more persons are nominated to fill those vacancies, each vacancy shall be dealt with separately in accordance with paragraph a) above.

17. MEMBERS' CONDUCT

17.1 The Mayor may call the attention of the Council to continued irrelevancy, tedious repetition, unbecoming language or any breach of order on the part of a Member addressing the meeting and, after two warnings, shall not allow the Member to proceed. The Mayor shall call upon another Member to address the Council or, if no Member shall rise (subject to the right of the Mover to reply), put the question to the vote without further debate.

17.2 No Member may impute motives to, or use offensive expressions concerning, any other Member of the Council. In the event of any Member offending against this Rule, the Mayor may call upon the Member to withdraw the offensive remark.

17.3 If any Member of the Council persists in disregarding the authority of the Mayor or behaves irregularly, improperly or offensively or wilfully obstructs the business of the Council, the Mayor may call upon the Member to retire from the meeting for the remainder of the business.

18. SUSPENSION OF SITTING

In a case of defiance of the authority of the Mayor, the Mayor may, on obtaining the consent of a majority of the Members of the Council present and voting on the question so to do, have the offending Member or Members of the Council, removed, and either declare the meeting closed (and leave the Chair) or declare the meeting to be adjourned indefinitely or until some stated time. Upon such declaration the meeting shall forthwith be closed or stand adjourned accordingly, and no business shall be transacted until the next duly convened meeting, or until the resumption of the meeting, in accordance with the Mayor's pronouncement.

19. POWER TO RESOLVE INTO COMMITTEE

19.1 Should a Motion be moved in accordance with Procedure Rule 11.4(p) at the close of any speech, the Council may pass a resolution resolving itself into Committee.

19.2 These Council Procedure Rules shall apply to proceedings of the Council in Committee, except that any Member may speak more than once with the permission of the Mayor.

20. QUESTIONS AND CONFIDENTIAL OR EXEMPT INFORMATION

20.1 If any question arises on any matter as to the appointment, promotion, dismissal, salary or conditions of service, or as to the conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council has decided whether or not the power of exclusion of the public under Section 100A(4) of the Local Government Act 1972 shall be exercised.

20.2 If any question arises on any matter and it is questioned whether a consideration of that matter will require matters containing confidential or exempt information to be disclosed, such question shall not be the subject of discussion until the Council has decided whether or not the power of exclusion of the public under Section 100A(4) of the Local Government Act 1972 shall be exercised.

21. ADMISSION OF THE PUBLIC TO MEETINGS

21.1 The public shall be admitted to all meetings of the Council so far as there is accommodation, but:

a) at any meeting the Council may temporarily exclude the public from such meeting or any part thereof in accordance with Section 100A(2) or (4) of the Local Government Act 1972;

b) if a member of the public interrupts the proceedings at any meeting, the Mayor may, after warning, order that he/she be removed from the Council Chamber or that the part of the Chamber open to the public be cleared in accordance with Section 100A(8) of the Local Government Act 1972;

c) if a member of the public making an audio or video recording of the meeting causes disruption to the meeting or to other members of the public in attendance, the person shall comply with any direction of the Mayor;

d) a member of the public making an audio or video recording of the meeting shall remove their recording equipment from the room should the Council resolve to exclude the press and public.

21.2 Any person attending a meeting for the purpose of reporting the proceedings is to have reasonable facilities made available for taking their report.

22. ANNUAL BOROUGH REPORT

The Mayor will call upon the Leader to present an Annual Borough Report. After Council has considered the report it will be:

a) disseminated as widely as possible within the community and to agencies and organisations in the area; and

b) considered by the Leader in proposing the Budget and Policy framework to the Council for the coming year.

23. YOUTH COUNCIL ANNUAL REPORT

The Mayor will call upon the Youth Council on a date within the Municipal Year to present to Council an annual presentation of work undertaken by the Youth Council.

24. RULES WHICH APPLY TO COMMITTEES OF THE COUNCIL

The following Council Procedure Rules will apply to all Committees and SubCommittees of the Council as described within Section 4 of Part 3 of this Constitution -

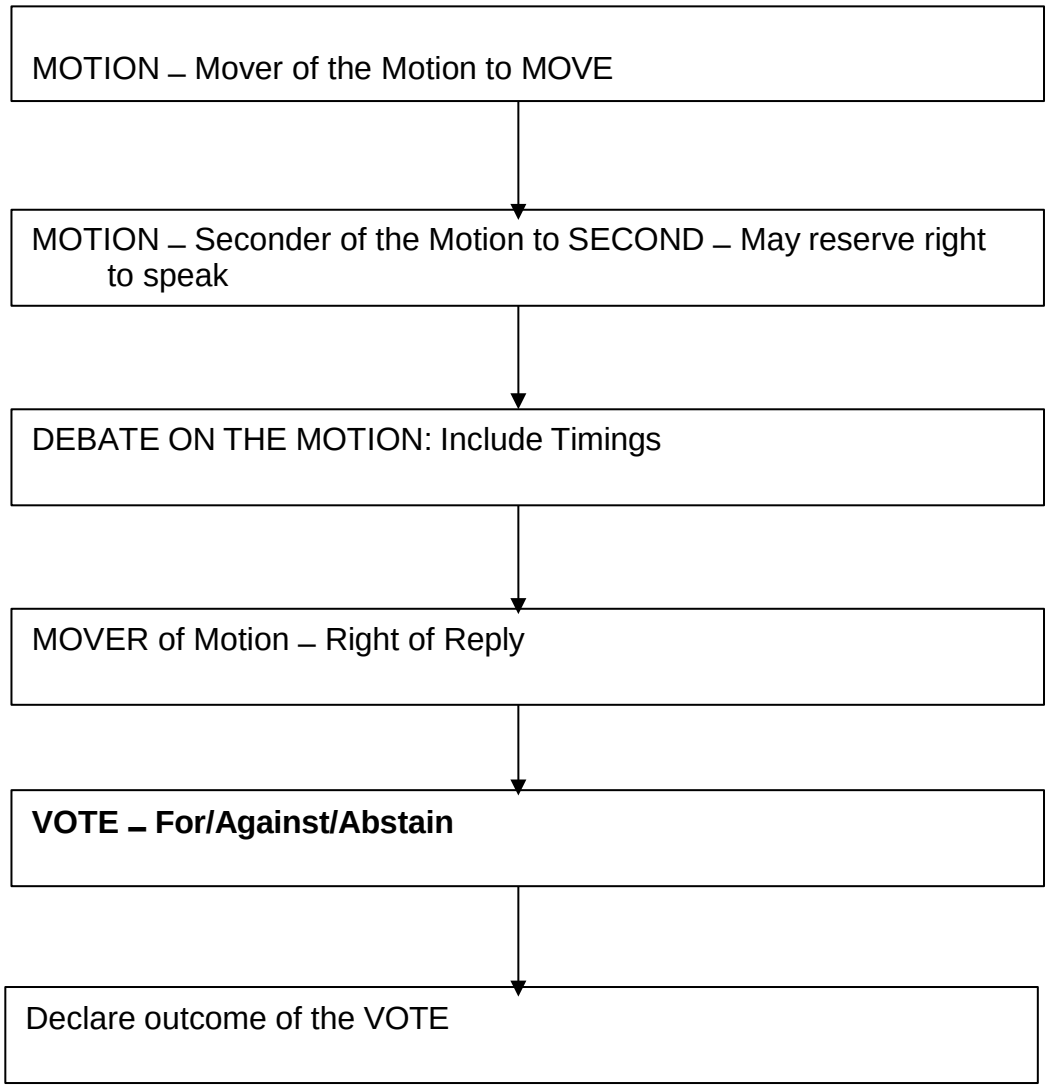
- Rule 4 Notice and Summons to Meeting
- Rule 5 Chair of Meeting (reference to the Mayor or Chair also includes the chair of Committees and sub – committees)
- Rule 6 Speaking to the Council (except for requirement to stand when speaking)
- Rule 7 Quorum (quorum for individual meetings are specified at Section 4 of Part 3 of this Constitution)
  Rule 9 Signing of Minutes
- Rule 10 Public Questions (for all non-full Council Meetings, a public question must be received before 12 noon 2 working days before the date of the meeting)
- Rule 14 Rules of Debate (except for time limits on speaking and, with the consent of the Chair, a Member may speak more than once on any matter)
- Rule 16 Voting (but not 16.3)
- Rule 17 Members' Conduct
- Rule 18 Suspension of Sitting
- Rule 20 Questions and Confidential or Exempt Information
- Rule 21 Admission of the public to meetings

AGENDA AND TIMINGS FOR COUNCIL MEETING

1. Minutes
2. Declaration of interest
3. Urgent business
4. Communications
5. Petitions
6. Youth Council **20** mins
7. Public questions **15** mins
8. Leader and Cabinet member reports and questions **90** mins
9. Administration Motions **30** mins
10. Opposition Motions **30** mins
11. Other business, including reports

Note Any time not utilised in Items 1 – 10 will be allocated to Item 11.

PROCEDURE FOR NOTICE OF MOTIONS (NO AMENDMENT)

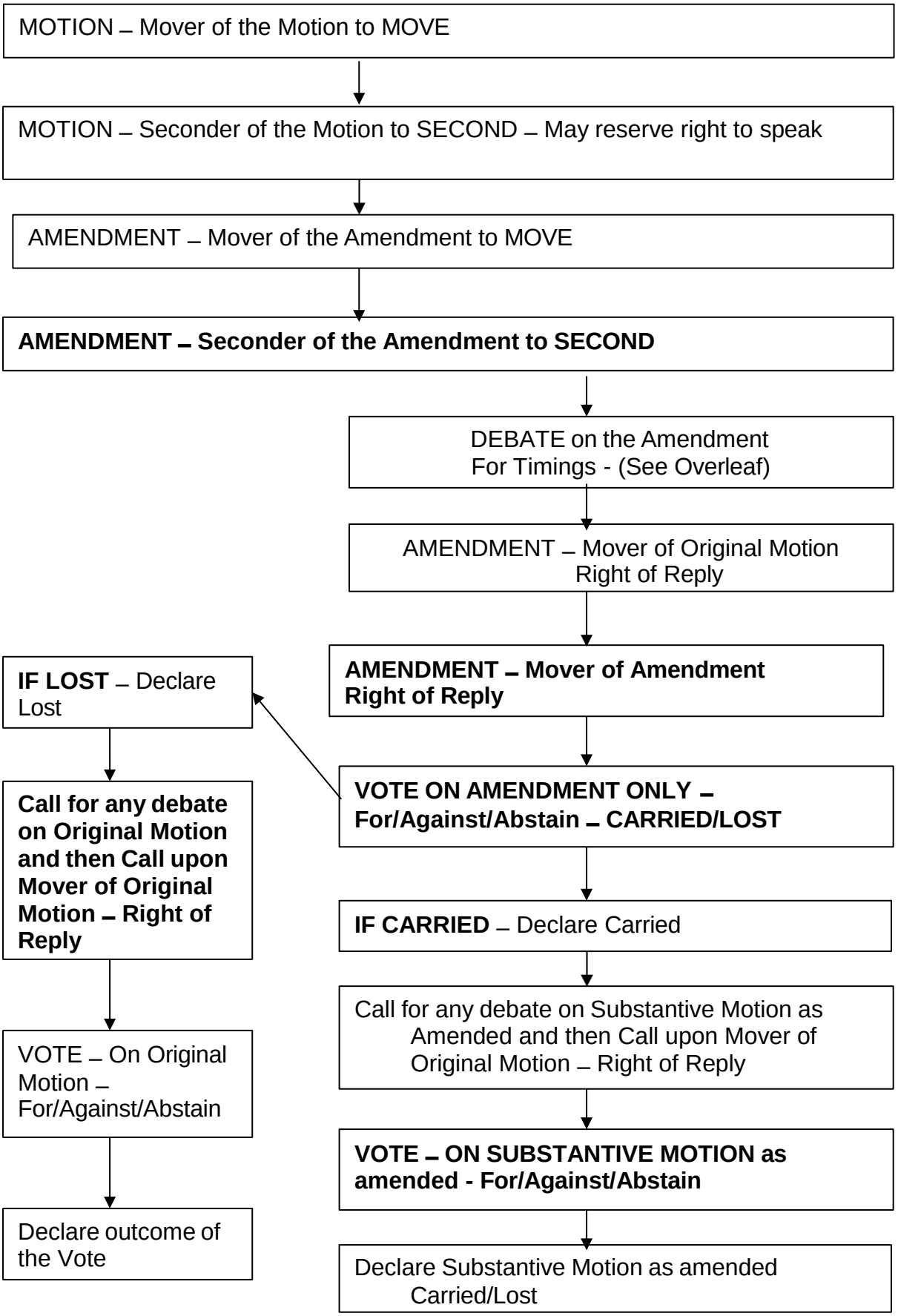


RULE ON TIMINGS

(a) Subject to (b) below, no Member shall speak longer than four minutes on any **Motion or Amendment**, or by way of question, observation or reply, unless by consent of the Members of the Council present, he/she is allowed an extension, in which case only one extension of thirty seconds shall be allowed.

(b) A Member replying to debate or questions shall be entitled to speak for six Minutes, and shall be allowed, with the consent of the Members of the Council present, on extension of one minute. (This would be the MOVER)

PROCEDURE FOR NOTICE OF MOTIONS (WITH AMENDMENT)


MOTION – Mover of the Motion to MOVE
MOTION – Seconder of the Motion to SECOND – May reserve right to speak
AMENDMENT – Mover of the Amendment to MOVE
AMENDMENT – Seconder of the Amendment to SECOND
DEBATE on the Amendment
For Timings - (See Overleaf)
AMENDMENT – Mover of Original Motion
Right of Reply
AMENDMENT – Mover of Amendment
Right of Reply
VOTE ON AMENDMENT ONLY –
For/Against/Abstain – CARRIED/LOST
IF CARRIED – Declare Carried
Call for any debate on Substantive Motion as
Amended and then Call upon Mover of
Original Motion – Right of Reply
VOTE – ON SUBSTANTIVE MOTION as
amended - For/Against/Abstain
Declare Substantive Motion as amended
Carried/Lost
IF LOST – Declare
Lost
Call for any debate
on Original Motion
and then Call upon
Mover of Original
Motion – Right of
Reply
VOTE – On Original
Motion –
For/Against/Abstain
Declare outcome of
the Vote

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Part 4B
Access to Information Procedure Rules

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PART 4 - ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

1.1 These Procedure Rules apply to all meetings of the Council, of Council Committees (as identified in Section 4 to Part 3 of this Constitution), of Overview and Scrutiny Boards (as identified in Section 5 to Part 3), and of the Cabinet Committees and Board (as identified in Section 7 to Part 3) (together called meetings).

1.2 These Procedure Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

2. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings unless confidential or exempt information as defined in Procedure Rule 9 is to be considered and the meeting has resolved to exclude the public.

3. NOTICE OF MEETING

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at the JR Clynes Building, Oldham, and on the Council's website.

4. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

4.1 The Council will make copies of the agenda and reports available for public inspection at the JR Clynes Building, Oldham and on the Council's website at least five clear days before the meeting unless the meeting is convened at shorter notice, in which case the agenda and reports will be available as soon as convened. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors.

4.2 For all purposes of these Rules and the Constitution in general, the terms "notice", "summons", "agenda", "report", "written record" and "background papers" when referred to as being a document that is:

a) "open to inspection", shall include for these and all other purposes as being published on the website of the Council; and Part 4B Page 3 of 13 Access to Information Procedure Rules Sept 2023

b) to be published, posted or made available at offices of the Authority, shall include publication on the website of the Authority.

5. SUPPLY OF COPIES

The Council will supply copies of the following documents to any person on payment of a charge for postage and any other costs:

a) any agenda and reports which are open to public inspection;
b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
c) if the Chief Executive thinks fit, copies of any other documents supplied to Councillors in connection with an item.

6. ACCESS TO AGENDA, MINUTES, DECISION RECORDS AND REPORTS

6.1 The Council will make available copies of the following for six years:

a) the minutes of a meeting excluding any part which discloses exempt or confidential information;
b) records of decisions taken, together with reasons, for all decisions taken by the Cabinet, Cabinet Committees and Boards, and for key decisions taken by individual Cabinet Members and by Officers, excluding any part which would disclose exempt or confidential information;
c) a summary of any proceedings of any meeting not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
d) the agenda for any meeting; and
e) reports relating to any items which would not disclose confidential or exempt information.

6.2 The relevant Chief Officer or report author will make available copies of the background papers referenced in any report available to the public for a period of four years.

7. MATTERS TO BE CONSIDERED IN EVERY REPORT TO ALL MEETINGS AND TO INDIVIDUAL DECISION MAKERS

7.1 Every report shall consider under separate headings the following matters:

1. Legal Implications
2. Financial Implications
3. Equality Impact – including implications for Children and Young People

Other relevant corporate issues such as Human Resources implications, Property or Procurement implications should be considered within the body of the report.

7.2 The person compiling a report must also set out a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the author disclose any facts or matters on which the report. an important part of the report is based and which have been relied on to a material extent in preparing the report.

7.3 The requirement to list background papers does not include published works, documents which would disclose exempt or confidential information (as defined in Procedure Rule 9) or, in respect of executive reports, the advice of a political advisor.

7.4 Background papers must be available for public inspection and where the report relates to an executive decision the background papers must also be available on the Council's website

7.5 If the person compiling the report is to recommend that the public be excluded from the meeting during consideration of the report and/or from having access to the report on the grounds that the report contains exempt information, the person must give a consideration to the balance of public interest when recommending confidentiality.

7.6 Paragraph 7.1 does not apply to (as on a different report template) Planning Committee, Commons Registration Committee and Charitable Trust Committee meetings (for clarification Paragraph 7.1 does not include Officer Delegated Decisions which are not required to be published under this Constitution).

8. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the JR Clynes Building, Cultural Quarter, Greaves Street, Oldham, OL1 1AL.

9. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

9.1. **Business to be considered in private – public notice**

9.1.1 Prior to any executive meeting, public notice must be given at least 28 clear working days before any meeting of the Cabinet or of a Cabinet Committee or Board or of an area committee or called under joint arrangements where there is an intention to consider an item of business in private. The reason for the item of business to be considered in private must also be included. The notice provides an opportunity for representations to be made by the public as to why the business should be transacted in public.

9.1.2 A further notice must be published five clear days before the meeting, restating the reasons for consideration of business in private. The notice must also include details of any representations made about why the business should be transacted in public, and the Executive's response to the representations.

9.1.3 If the above timetable is impracticable, the business may still be considered in private if the Executive has had agreement from the Chair of the relevant Overview and Scrutiny Board (or if he/she is unable to act, from the Mayor or the Deputy Mayor). Public notice must then be given setting out the reasons why consideration of the business is urgent and cannot reasonably be deferred.

9.2 **Confidential information – requirement to exclude public**

9.2.1 The public must be excluded from any meeting 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.

9.2.2 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 Court Order.

9.3 **Exempt information – discretion to exclude public**

9.3.1 The public may be excluded from any 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.

9.3.2 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

9.3.3 In all cases, before the public is excluded the meeting must be satisfied that, in all circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

9.3.4 Exempt information means information falling within the following categories (subject to any condition):

Category	Qualification/Interpretation
1. Information relating to any particular individual.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual.
2.Information which is likely to reveal the identity of any individual	A "protected informant" means a person giving the Council information which tends to show that (a) a criminal offence; (b) a breach of statutory duty; (c) a breach of planning control; or (d) a nuisance, has been, or is being, or is about to be committed.

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	“Financial or business affairs” includes contemplated, as well as past or current, activities; Information is not exempt if it must be registered under (a) the Companies Acts (as defined in section 2 of the Companies Act 2006); (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Co-Operative and Community Benefits Societies Act 2014; (e) the Building Societies Act 1986; or (f) the Charities Act 2011. “Registered” in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Council, or a Minister of the Crown, and any employees of, or office holders under, the Council.	"Employee" means a person employed under a contract of service. "Labour relations matter" means— (a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or (b) any dispute about a matter falling within paragraph (a) above; the enactments in paragraph (a) applying, with the necessary modifications, also to office-holders under the authority. "Office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6. Information reveals that the Council 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.	
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	

Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission or permission in principle under Regulation 3 of the Town and Country Planning General Regulations 1992.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Procedure Rule 9, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

11. KEY DECISION DEFINITION

11.1 **Key decision definition**

A key decision is any executive decision taken by the Cabinet, a Board or Committee of the Cabinet or by an individual Cabinet member, or by an area committee, under joint arrangements or by an officer under delegated executive powers which -

a) is likely to result in a local Council incurring expenditure which is, or the making of savings which are, significant having regard to the local Council's budget for the service or function to which any decision relates; or

b) be significant in terms of its effects on communities living or working in the area comprising two or more wards in the area of the local Council; or

11.2 **Key Decision Definitions – qualification/interpretation**

For the purposes of this definition, ‘significant’ with regard to expenditure or savings is defined as:

a) any decision which results in the Council incurring expenditure or making savings over £250,000 (except for any decision taken as a consequence of the Council’s approved Treasury Management Strategy)

b) the acquisition or disposal of land or property the value of which is estimated to exceed £250,000;

c) securing approval to the taking of, or the granting, renewal, assignment, transfer, surrender, taking of surrenders, review, variation or termination of any leases, licences, easements or wayleaves, at considerations in excess of £250,000 over the term of the agreement or a premium of £250,000;

12. PROCEDURE BEFORE TAKING KEY DECISIONS

12.1 A key decision may not be taken unless 28 clear days Notice has been given of the intention to take a key decision and that Notice has been made available at the JR Clynes Building, Oldham and on the Council’s website. The Notice will contain matters which will be the subject of a key decision to be taken by the Cabinet, a Board or Committee of the Cabinet, an individual member of the Cabinet, by an Officer or under joint arrangements during the period covered by the plan. It will describe the following in so far as the information is available or might reasonably be obtained:

a) the matter in respect of which a decision is to be made;

b) where the decision taker is an individual, his/her name and title, if any and

where the decision taker is a body, its name and details of membership;

c) the date on which, or the period within which, the decision will be taken;
d) a list of the documents submitted to the decision taker for consideration in relation to the matter;
e) the address from which copies of, or extracts from, any document listed is available;
f) that other documents relevant to those matters may be submitted to the decision maker and;
g) the procedure for requesting details of those documents (if any) as they become available

12.2 Exempt information need not be included in a Key Decision Document and confidential information cannot be included.

13. GENERAL EXCEPTION

13.1 If 28 clear days notice of a matter likely to be a Key Decision has not been given, then the decision shall only be made:

a) if the date by which the decision must be taken makes it impractical to defer until it has been included on a later Notice issued in accordance with Procedure Rule 12 above
b) where the Director of Legal has obtained agreement in writing from the Chair of the appropriate Overview and Scrutiny Board (or his/her nominee), that the matter about which the decision is to be made cannot be deferred;
c) where the Director of Legal has made available at the JR Clynes Building, Oldham and on the Council's website, a 'General Exception Key Decision Notice'; and
d) after five clear days have elapsed following the day on which the Director of Legal made available the notice referred to in paragraph (c).;

13.2 Where this paragraph is complied with in any matter, Procedure Rule 12 above need not be complied with.

14. CASES OF SPECIAL URGENCY

14.1 Where the date by which an executive decision that would be a key decision must be made makes compliance with Key Decision procedures at Procedure Rule 12 and General Exception procedures at Procedure Rule 13 above impracticable, the decision shall only be made where the decision maker has obtained agreement from the Chair of the relevant Overview and Scrutiny Board (or his/her nominee) or if not available, the Mayor or in absence of the Mayor, the Deputy Mayor. Where this Procedure Rule applies, the decision is also exempt from call-in.

14.2 As soon as reasonably practicable after agreement has been sought, a notice must be published at the JR Clynes Building, Oldham, and on the Council's website, setting out the reasons why that the decision is urgent, and why it cannot reasonably be deferred.

15. REPORTS TO COUNCIL

15.1 **When an Overview and Scrutiny Board can require a report**
If an Overview and Scrutiny Board is of the opinion that a key decision has been taken which was not subject to Key Decision, General Exception or Special Urgency procedures, the Committee may require the decision taker to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the Committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Committee when so requested (by the Chair or any 5 members).

15.2 **Cabinet's report to Council**
The decision taker will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 9 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

15.3 **Annual report on special urgency decisions**
The Leader will submit at least annually a report to the Council on all executive decisions taken in the circumstances set out in Procedure Rule 14 (Special Urgency) since the last such report was submitted. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

16. PROCEDURE AFTER TAKING KEY DECISIONS

After any meeting of the Cabinet or any of its Committees or Boards, whether held in public or private, the Director of Legal or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, alongside the date of the decision, and any declarations of interest made.

The Proper Officer will ensure that such minutes and records are published in accordance with Procedure Rule 6 above. Key Decisions taken under delegated authority are eligible for call-in in accordance with the processes contained in the Overview and Scrutiny Procedure Rules at Part 4E of this Constitution.

17. PROCEDURES AFTER TAKING PRINCIPAL AND ADMINISTRATIVE DECISIONS

17.1 After a Principal Decision of either the Council or the Executive, as defined at Article 14 of Part 2 and at Section 11 to Part 3 of this Constitution, has been taken, the Proper Officer will ensure that minutes and records of the decision, including the considered report, drafted in accordance with the requirements of Procedure Rule 16 above, are published in accordance with Procedure Rule 6

above.

17.2 After an Administrative Decision of either the Council or the Executive, as defined at Article 14 of Part 2 and at Section 11 to Part 3 of this Constitution, has been taken, Chief Officers must retain a record of the decision and the reasons for the decision, such record being drafted sufficiently for audit and evidential purposes.

18. OVERVIEW AND SCRUTINY BOARD ACCESS TO DOCUMENTS

18.1 **Rights to documents**

Subject to Procedure Rule 18.2 below, a member of an Overview and Scrutiny Board 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 meeting of the Cabinet or its committees;
b) any decision taken by an individual member of the Cabinet; or
c) Any key decision taken by an officer.

18.2 This must be provided as soon as reasonably practicable and no later than 10 clear days after the request is made.

18.3 **Rights in relation to private decisions of the Cabinet**

The Chairs of all Overview and Scrutiny Boards shall be entitled to foresight of papers in relation to private decisions of the Cabinet before the decision is made.

18.4 **Limit on rights**

A member of an Overview and Scrutiny Board will not be entitled to:

a) any document that is in draft form;
b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise in accordance with the Scrutiny Work Programme; or
c) the advice of a political adviser appointed under s9 of Local Government and Housing Act 1989.

18.5 **Rights to make material relating to decisions available**

The Cabinet, or other decision making body, is also required to provide a report upon request by the relevant Overview and Scrutiny Board if:

a) A Key Decision was taken which was not in accordance with Procedure Rule 12 (Subject to Rule 13 (General Exception) or Procedure Rule 17 (Special Urgency), or;
b) A decision was taken which was not treated as a Key Decision but in the opinion of the Overview and Scrutiny Board should have been a Key Decision.

19. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

19.1 **Material relating to previous business**

All members are entitled to inspect any document which is in the possession or under the control of the executive and contains material relating to any

business previously transacted in private at a meeting or by an individual Member of by an Officer making a key decision unless it contains confidential information; exempt information insofar as it relates to information relating to the business or financial affairs of any particular person (including the Authority holding that information), with the exception of information that relates to any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract, or which reveals that the authority proposes to give a notice imposing requirements on a person or make an order or direction under any enactment; or the advice of a political adviser.

19.2 **Nature of rights**

These rights of a member are additional to any other right he/she may have.

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Part 4C
Budget and Policy Framework Procedure Rules

PART 4C - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. THE FRAMEWORK FOR EXECUTIVE DECISIONS

The Council will be responsible for the approval and adoption of the Budget and related policies and strategies and the policies, strategies and plans that form the Policy Framework as set out in Article 4 at Part 2 of this Constitution. Once the budget or a Policy Framework item has been formally approved by the Council, it is the responsibility of the Executive to implement it.

2. PROCESS FOR DEVELOPING THE BUDGET AND POLICY FRAMEWORK

2.1 The Executive will publicise in the Key Decision Document required by Access to Information Procedure Rules at Part 4B of this Constitution the timetable for making proposals to the Council for the adoption of the Budget and related items and any item within the Policy Framework, including arrangements for consultation on the initial proposals. This includes also any draft policies, strategies or plans included within the scope of the Policy Framework that require the approval of the Council prior to submission to the Secretary of State or any Minister of the Crown for his/her approval. The chairs of Overview and Scrutiny Boards will also be notified of the timetable. The consultation period shall in each instance be not less than 6 weeks unless the Government or other relevant body issues guidelines requiring a shorter period of time.

2.2 At the end of the consultation period, the Cabinet will draw up final proposals having regard to the responses to that consultation, including any response from the appropriate Overview and Scrutiny Board. The Cabinet will take any response into account in drawing up final proposals for submission to the Council, and its report to Council recommending a decision will reflect the comments made by consultees and the Cabinet's response.

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 of this Constitution, Rules 3.2 to 3.5 below have been incorporated into these Rules as required by the Local Authorities (Standing Orders) (England) Regulations 2001.

3.2 Where the Cabinet 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 Rule 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 Cabinet 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 of Rule 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 Cabinet within which the Executive leader may:

a) submit a revision of the draft plan or strategy as amended by the Cabinet (the "revised draft plan or strategy") with the Cabinet'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 Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

3.5 When the period specified by the Council, referred to in Rule 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 included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet 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 the Executive Leader may indicate on behalf of the Cabinet 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. Rules 4.2 to 4.5 below have been incorporated into these Rules as required by the Local Authorities (Standing Orders) (England) Regulations 2001.

4.2 Where, before 8th February in any financial year, the Cabinet 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, 31B, 34 to 36A, or 52ZF, 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 Rule 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 Rule 4.2(a), it must inform the Executive Leader of any objections which it has to the Cabinet estimates or amounts and must give to him/her instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

4.4 Where the Council gives instructions in accordance with Rule 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 Cabinet within which the Executive Leader may:

a) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet 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 Cabinet has with any of the Council’s objections and the Cabinet’s reasons for any such

disagreement.

4.5 When the period specified by the Council, referred to in Rule 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 Rule 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 Cabinet's reasons for those amendments
c) any disagreement that the Cabinet has with any of the Council's objections, and
d) the Cabinet's reasons for that disagreement

which the Executive Leader submitted to the Council, or informed the Council of, within the period specified.

Rule 4.2 to 4.4 shall not apply in relation to calculations or substitute calculations which the Council are required to make in accordance with Sections 52 (I) (J) (T) or (U) of the Local Government Finance Act 1992.

4.6 Where estimates and calculations are drawn up by the Cabinet on or after 8th February in any financial year and are submitted to the Council for their consideration, the procedure in Rules 4.2 to 4.5 will not apply.

5. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

5.1 Subject to the provisions of Procedure Rule 7 (Virement), the Cabinet, Committees or Boards of the Cabinet, individual members of the Cabinet and any Officers or joint arrangements 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, subject to Procedure Rule 6 below.

5.2 In such cases, the Cabinet, Committees or Boards of the Cabinet, individual members of the Cabinet and any Officers or joint arrangements discharging executive functions shall take advice from the Monitoring Officer and/or the Chief Finance Officer. If the advice of either Officer is that the decision would not be in line with the existing Budget and/or Policy Framework, 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 in Procedure Rule 6 (urgent decisions outside the budget or policy framework) shall apply.

6. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

The Cabinet, Committees or Boards of the Cabinet, individual members of the Cabinet and any Officers or joint arrangements discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

a) if it is not practical to convene a quorate meeting of the full Council; and

b) if the chair of a relevant Overview and Scrutiny Board agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of the Council and the Chair of the relevant Overview and Scrutiny Board's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chair of a relevant Overview and Scrutiny Board the consent of the Mayor, and in the absence of both the Deputy Mayor, will be sufficient.

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

Virement approvals are contained in 3.6-3.16 of the Financial Procedure Rules.

8. IN-YEAR CHANGES TO POLICY FRAMEWORK

In approving a Policy Framework item, the Council shall specify the extent and nature of any changes to such an item that may be made by the Cabinet. Otherwise, no changes to any policy, plan or strategy which make up the Policy Framework may be made by the Cabinet.

9. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

9.1 Where an Overview and Scrutiny Board is of the opinion that a key 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 the Chief Finance Officer.

9.2 In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's and/or the Chief Finance Officer's report and to prepare a report to either:

a) the Council in the event that the Monitoring Officer or the Chief Finance Officer concludes that the decision was a departure from the Budget or Policy Framework; or

b) to the Overview and Scrutiny Board if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure from the Budget or Policy Framework.

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 Finance Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Overview and Scrutiny Board 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. The Council shall meet within ten working days of the request by the Overview and Scrutiny Board. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:

a) endorse a decision or proposal of the Cabinet decision taker as falling within the existing Budget and Policy Framework and the decision may be implemented with immediate effect; or

b) accept that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget but resolve to
amend the Council's Financial Regulations, the Budget or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and the decision may be implemented with immediate effect; or

c) accept that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget but does not resolve to amend the Council's Financial Regulations, the Budget or policy concerned to accommodate it and require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

Part 4D
Executive Procedure Rules

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PART 4 - EXECUTIVE PROCEDURE RULES

1. WHO MAY MAKE EXECUTIVE DECISIONS?

The Leader of the Council (the 'Leader') as leader of the executive may discharge any executive function of the Council (and may take any executive decision of the Executive Functions vested in the Leader) or may provide for any executive function of the Council to be discharged by the Cabinet; a Committee or Board of the Cabinet; an individual Cabinet Member; an officer of the Council; an area committee or under joint arrangements.

2. APPOINTMENTS AND DELEGATION BY THE LEADER

2.1 At the annual meeting of the Council, the Leader will present to the Council the following detail regarding executive arrangements -

a) the names of the Members appointed to the Cabinet;
b) the name of the Cabinet Member appointed Deputy Leader of the Council (the "Deputy Leader");
c) the extent of any decision making delegated to Cabinet members individually, including details of the limitation on their delegation;
d) the terms of reference and membership of any Cabinet Committees established, including details of the limitation on their delegation;
e) the nature and extent of any delegation of executive functions to area committees, any other Council or any joint arrangements and the membership of any joint committee for the coming year; and
f) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officers to whom the delegations are made.

2.2 The details of any delegations determined by the Leader are recorded in Sections 7-9 and 12 of Part 3 (Responsibility for Functions) to this Constitution.

3. DEPUTY LEADER OF THE COUNCIL

3.1 The Leader must give written notice of the appointment of the Deputy Leader to both the person who he/she is appointing as Deputy Leader and to the Monitoring Officer. The appointment will take effect upon receipt of the Leader's written notice by both the person who the Leader is appointing as Deputy Leader and also the Monitoring Officer. The Monitoring Officer will keep a written record of the appointment of the Deputy Leader and will report the appointment to Council and the Cabinet at the earliest opportunity. The Leader may appoint another Cabinet member as a deputy leader but this individual would not have the powers detailed in this paragraph. The Deputy Leader is the person appointed as the statutory Deputy Leader

3.2 The Deputy Leader will hold office until the end of the Leader's term of office unless:

a) he/she resigns from the office of Deputy Leader;
b) he/she is no longer a Councillor;
c) he/she is no longer a member of the Cabinet; or
d) 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 upon 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 Council and the Cabinet at the earliest opportunity.

3.3 Where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another person in the manner shown above.

3.4 It is the role of the Deputy Leader to act in the place of the Leader in circumstances where the Leader is unable to act or the office of Leader is vacant.

3.5 If, for any reason:

a) the Leader is unable to act or the office of Leader is vacant; and
b) the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Cabinet must act in the place of the Leader or arrange for a Cabinet Member to act in his/her place. For clarification, in the event that the office of Leader becomes vacant, a Leader will be appointed at a Council meeting as soon as possible.

3.6 In the event of there being no Leader, Deputy Leader or Cabinet members, executive functions shall in the interim be carried out by the Chief Executive, subject to the Access to Information Rules.

4. CABINET MEMBERS

4.1 When appointing Cabinet Members, the Leader shall determine what Portfolios or areas of responsibility those members shall hold. When appointing a Cabinet Member the Leader must give written notice of the appointment and of the Portfolio to both the person who he/she is appointing and to the Monitoring Officer.

4.2 The appointment of the Cabinet Member will take effect upon 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 a Cabinet Member and the Leader will report the appointment and the portfolio to Council and the Cabinet at the earliest opportunity.

4.3 A Cabinet Member will hold office until the end of the Leader's term of office unless:

a) he/she resigns from the office of Cabinet Member; or
b) he/she is no longer a Councillor; or
c) he/she is removed by the Leader who must give written notice of such removal to both the Cabinet Member and to the Monitoring Officer. The removal of a Cabinet Member will take effect upon receipt of the Leader's written notice by both the Cabinet Member and the Monitoring Officer. The Monitoring Officer will keep a written record of any removal of a Cabinet Member and the Leader will report any such removal to Council and the Cabinet at the earliest opportunity.

5. DELEGATION AND EXERCISE OF EXECUTIVE FUNCTIONS

At times other than at the Annual Meeting (Procedure Rule 2 above refers) the Leader shall inform the Monitoring Officer of the terms of reference and delegation arrangements of the Cabinet, Cabinet Sub-Committees and Boards and of the delegation of executive functions to area committees, Officers or to be undertaken under joint arrangements. The Monitoring Officer shall notify the Council and amend the Constitution at the earliest opportunity.

6. CONFLICTS OF INTEREST

6.1 Members of the Cabinet will have due regard to the Members' Code of Conduct at Part 5 of the Council's Constitution.

6.2 If the exercise of an executive function has been delegated by the Leader to a Cabinet Member, a Committee of the Cabinet, an area committee or an Officer, and should a conflict of interest arise meaning that person or body cannot make a decision, then the function shall be exercised in the first instance by

a) in the case of a Cabinet Member, the Leader;
b) in the case of a Cabinet Committee or an area committee, the Cabinet; or
c) in the case of an Officer, the relevant Cabinet Member.

6.3 If the exercise of an executive function has been delegated by a Cabinet Member, a Committee of the Cabinet or an area committee to an Officer and should a conflict of interest arise meaning that person cannot make a decision, then the function shall be exercised by the person or body who delegated the power.

6.4 If the Leader of the Council is personally conflicted on a matter that has been reserved to the Leader, then the Deputy Leader shall act in place of the Leader. If both the Leader and the Deputy Leader are conflicted, the matter shall be reserved to the Cabinet.

7. MEETINGS OF THE CABINET

7.1 The Cabinet will normally meet at least 10 times per year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

7.2 The Cabinet shall meet in public except where the meeting is to consider confidential or exempt information and where due notice of the intention to consider business in private has been given and the meeting has resolved to exclude the public in accordance with Access to Information Procedure Rules at Part 4B of this Constitution. Meetings and business shall be conducted in accordance with the requirements of the Access to Information Procedure Rules and Overview and Scrutiny Procedure Rules.

7.3 The quorum for a meeting of the Cabinet shall be 4.

7.4 The Leader will chair meetings of the Cabinet. In the absence of the Leader, the statutory Deputy Leader shall chair the meeting. In the absence of both the Leader and Deputy Leader, the members of the Cabinet in attendance shall appoint a person from among those present to preside at that meeting.

7.5 At each meeting of the Cabinet the following business shall be conducted:-

a) declarations of interest, if any;
b) consideration of the minutes of the last meeting;
c) public question time (this includes any questions asked by non executive members) ;
d) matters referred to the Cabinet, if any (whether by an Overview and Scrutiny Board or by the Council) for reconsideration by the Cabinet in accordance with the provisions of Budget and Policy Framework Procedure Rules or Overview and Scrutiny Procedure Rules set out in Parts 4C and E respectively of this Constitution;
e) consideration of reports from Overview and Scrutiny Boards, if any; and
f) matters set out in the agenda for the meeting which shall indicate which are key decisions and have been treated as such in accordance with the Access to Information Procedure Rules;
g) matters set out in the agenda for the meeting for consideration as private business where notice has been given in accordance with the Access to Information Procedure Rules.

7.6 Other business that may be considered by the Cabinet shall be:-

a) Any member of the Cabinet or Chair of an Overview and Scrutiny Board may put on the agenda of any Cabinet meeting any matter for which the Council holds a responsibility or which affects the Borough. The Chief Executive will comply with all lawful requests in this respect.

b) Any member of the Council may request an item be put on the agenda of any Cabinet meeting in respect of any matter for which the Council holds a responsibility or which affects the Borough. The Chief Executive will only refuse such a request for some substantial reason. The Cabinet agenda shall state the name of the member requesting the item, the Member shall be invited to attend the meeting (whether in public or private session). The Chief Executive has discretion to limit the number of such items of business at individual Cabinet meetings.

c) The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties.

7.7 Unless the Leader has directed otherwise, the Cabinet may further delegate their executive decision making powers to a Committee of the Cabinet, an area committee or to an officer.

7.8 All reports to the Cabinet on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Boards, and the outcome of that consultation. The level of consultation required will be appropriate to the nature of the matter under consideration. Reports about other matters submitted to the Cabinet or to any another executive decision maker shall set out the details and outcome of any consultation as appropriate.

8. DECISION MAKING BY INDIVIDUAL CABINET MEMBERS

8.1 Individual Cabinet Members may exercise such executive decision-making powers as determined by the Leader and set out in the Scheme of Delegation to Individual Cabinet Members at Section 8 to Part 3 to this Constitution. Such matters must be dealt with on consideration of a prepared report.

8.2 Unless the Leader has directed otherwise, an Individual Cabinet Member may further delegate their executive decision-making powers to an area committee or to an Officer.

9. DECISION MAKING BY COMMITTEES OF THE CABINET

9.1 Committees and Boards of the Cabinet may be appointed by the Leader who shall determine membership and delegation to the Committees and Boards which shall be set out at Section 7 of Part 3 to this Constitution. Meetings shall be held in public except where the meeting is to consider confidential or exempt information and where due notice of the intention to consider business in private has been given and the meeting has resolved to exclude the public in accordance with Access to Information Rules. Meetings and business shall be conducted in accordance with the requirements of the Access to Information Procedure Rules and Overview and Scrutiny Procedure Rules.

9.2 Unless the Leader has directed otherwise, a Committee of the Cabinet may further delegate their executive decision-making powers to an area committee or to an officer.

9.3 At each meeting of a Committee of the Cabinet the following business shall be conducted:-

a) declarations of interest, if any;
b) consideration of the minutes of the last meeting;
c) public question time;
d) matters set out in the agenda for the meeting which shall indicate which are key decisions and have been treated as such in accordance with the Access to Information Procedure Rules.
e) matters set out in the agenda for the meeting for consideration as private business where notice has been given in accordance with the Access to Information Procedure Rules.

9.4 The quorum of a Cabinet Committee shall be two.

10. AREA COMMITTEES EXERCISING DELEGATED EXECUTIVE FUNCTIONS

10.1 The Leader may delegate executive functions to area committees which shall be set out the Scheme of Delegation. Meetings shall be conducted in accordance with the requirements of the Access to Information Procedure Rules and Overview and Scrutiny Procedure Rules.

10.2 Unless the Leader has directed otherwise, an area committee may further delegate their executive decision-making powers to an officer.

11. OFFICERS EXERCISING DELEGATED EXECUTIVE FUNCTIONS

The Leader may delegate executive functions to Officers which shall be set out the Scheme of Delegation.

12. DECISION MAKING UNDER JOINT ARRANGEMENTS OR BY ANOTHER AUTHORITY

The Leader may arrange for executive functions to be delivered through joint arrangements or by another authority. Procedural matters in respect of functions exercised through a joint arrangement will comply with the law and with this Constitution, varied only to align the procedural arrangements of the partner authority or authorities and as specified in a Heads of Terms agreement. Procedural matters in respect of functions exercised by another local authority will comply with the law and as specified in a Heads of Terms agreement.

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Overview and Scrutiny Procedure Rules

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PART 4E - OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Overview and Scrutiny arrangements

1.1 The Council will establish and appoint to such Overview and Scrutiny Boards as it considers appropriate to deliver the statutory scrutiny functions of the Council which are shown at Article 6 in Part 2 to this Constitution. Terms of reference for such Committees established, which may be varied from time to time by the Council to ensure the proper conduct of the overview and scrutiny function, are shown at Section 5 of Part 3 to this Constitution.

2. Membership of Overview and Scrutiny Boards

2.1 The Council will appoint such non-executive Members of the Council to serve as members of the Overview and Scrutiny Boards as it considers appropriate. The Leader of the Council and other members of the Cabinet are not eligible to serve on an Overview and Scrutiny Board. Notwithstanding, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

2.2 In line with statutory requirements, co-opted Church and parent/governor representatives will be accorded membership of any Overview and Scrutiny Board, with voting rights, for consideration of educational matters only.

2.3 The designated crime and disorder scrutiny committee may, in line with statutory requirements, appoint co-opted members with voting rights.

3. Appointment of Chairs and Vice-Chairs of Overview and Scrutiny Boards

3.1 The Council will appoint the Chairs of the Overview and Scrutiny Boards. Should the Council not appoint to the position of Vice Chair of an Overview and Scrutiny Board, such appointment will be made by the Overview and Scrutiny Board concerned.

4. Work Programming and Annual Report

4.1 Each Overview and Scrutiny Board shall be responsible for the preparation and maintenance of a Committee Work Programme. As a means of ensuring consistency of approach to the development of Work Programmes, the Chairs and Vice Chairs of the Overview and Scrutiny Boards may determine to agree a ‘Scrutiny Prioritisation Framework’ to establish a common approach to work programming and business prioritisation.

4.2 The Chairs of the Overview and Scrutiny Boards shall collectively arrange for an Overview and Scrutiny Annual Report to be submitted to the Council for consideration.

5. Task and Finish Groups

5.1 The Overview and Scrutiny Boards may establish and appoint such informal Task and Finish groups as they consider necessary in order to undertake in depth consideration of particular matters. Membership of such groups, which may be drawn from outside the membership of the Committee, will comply with the membership arrangements as shown in Procedure Rule 2 above. Any Task and Finish group so established may invite other people as considered necessary to assist in the completion of their work. Such Task and Finish Groups will report their findings and recommendations, in the first instance, to the establishing Committee.

5.2 Where considered necessary and appropriate in order to deliver the respective Committee Work Programmes, one-off informal workshops and briefings may also be convened, providing that report is made subsequently to the Committee concerned.

6. Overview and Scrutiny Board Meetings

6.1 The Overview and Scrutiny Boards shall meet on such dates as will be determined by the Council.

6.2 Overview and Scrutiny Boards shall meet in public except where a meeting is to consider confidential or exempt information and where the Committee has resolved to exclude the public in accordance with Access to Information Procedure Rules at Part 4B of this Constitution.

6.3 At a meeting of an Overview and Scrutiny Board the following business shall be conducted:-

a) declarations of interest, if any;
b) notice of urgent business;
c) consideration of the minutes of the last meeting;
d) public question time;
e) consideration of any call-in;
f) responses of the Council or of the Cabinet to any report of the Overview and Scrutiny Board;
g) the business set out in the agenda for the meeting which shall reflect the terms of reference of the Committee and the agreed Work Programme;
h) the Committee Work programme;
i) matters set out in the agenda for the meeting for consideration as private business.

6.4 Any special meeting of an Overview and Scrutiny Board shall consider the following business

a) declarations of interest, if any;
b) notice of urgent business;
c) the business set out in the agenda for the meeting which shall reflect the terms of reference of the Committee and the agreed Work Programme;
d) matters set out in the agenda for the meeting for consideration as private business.

6.5 Notwithstanding Procedure Rule 6.3 above, any non-executive Member or any five Members of the Council shall be entitled to give sufficient notice to the Chair of an Overview and Scrutiny Board that he/she/they wish an item relevant to the functions of that Committee to be included on the agenda for the next programmed meeting of the Committee. The Chair will ensure that the item is included on the agenda for the next programmed meeting, after assessment of the item against the Scrutiny Prioritisation Framework.

6.6 Notwithstanding Rule 6.3 above, within their respective terms of reference the Overview and Scrutiny Boards must consider any request for scrutiny made by a Councillor who has been unable to resolve an issue of concern, and in considering the request, the relevant Committee should not consider

a) any matter relating to a planning decision;
b) any matter relating to a licensing decision;
c) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Board,

having regard to the Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012 (and any successor legislation) for definition of the above matters and the Scrutiny Prioritisation Framework. Should an Overview and Scrutiny Board decide not to undertake scrutiny of a matter so raised, the Committee shall ensure that the reason is minuted and that the referring Councillor is informed.

7. Holding enquiries and calling witnesses

7.1 An Overview and Scrutiny Board or a Task and Finish Group so authorised by the establishing Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may ask witnesses, such as those suggested by Procedure Rule 13, to attend to address them on any matter under consideration. 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.

7.2 Where an Overview and Scrutiny body has asked people to attend to give evidence at a meeting, the meeting will be conducted in accordance with the following principles:

- the investigation be conducted fairly and all members of the body be given the opportunity to ask questions of attendees, and to contribute and speak;
- those assisting the work of the body by giving evidence be treated with respect and courtesy.
- the investigation will be conducted so as to maximise the efficiency of the investigation or analysis; and
- any the rules of confidentiality be maintained as and where necessary.

8. Reports from Overview and Scrutiny Boards

8.1 Once an Overview and Scrutiny Board has formed recommendations on proposals for development, it will prepare a formal report and submit it to the Chief Executive for consideration by the Cabinet and/or such other body the Committee considers appropriate.

8.2 If the Overview and Scrutiny Board cannot agree on one single final report, a minority report may, on application by three elected Members of the Committee, also be prepared and submitted for consideration by the Cabinet and/or other body with the majority report. However, the minority report must be submitted together with the majority recommendation or report to prevent delay and to ensure the receiving body/bodies can make an informed decision.

8.3 Should an Overview and Scrutiny Board report propose a variation to the Council's approved Budget and Policy Framework it shall be submitted to the Council with an accompanying recommendation of the Cabinet as to whether or not the Council should adopt the Committee's proposal.

8.4 The Cabinet and/or other body shall consider the report of the Overview and Scrutiny Board within six weeks of it being submitted to the Chief Executive, where practical.

9. Ensuring overview and scrutiny reports are considered by the Cabinet

9.1 The agenda for Cabinet meetings shall include an item inviting consideration of reports from Overview and Scrutiny Boards (if any) as required by Executive Procedure Rule 7.5(e) at Part 4D of the Council Constitution, unless the matter referred has been considered in the context of a substantive item on the Cabinet agenda.

9.2 In the event that any recommendation of an Overview and Scrutiny Board made to the Cabinet is not approved or is amended, the relevant Cabinet Member will be required to attend the next available meeting of the relevant

Committee to explain the reasons for the Cabinet's decision and answer any questions.

10. Forward Plan

10.1 Overview and Scrutiny Boards will have access to the Forward Plan prepared in accordance with Access to Information Procedure Rules and which includes the Executive's timetable for decisions and intentions for consultation. Where an item on the Key Decision Document has implications for policy/service development but has not been considered through the overview and scrutiny function the relevant Overview and Scrutiny Board will have full opportunity to be able to submit any comments to the relevant Cabinet Member and/or Chief Officer during the course of the consultation process.

11. Rights of Overview and Scrutiny Members to documents

11.1 In addition to their rights as Councillors, elected Members involved in overview and scrutiny functions have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules. Further, more detailed liaison between the Cabinet and Overview and Scrutiny bodies may take place as appropriate depending on the particular matter under consideration.

12. Attendance by Members and officers to give account

12.1 All Overview and Scrutiny Boards, and any Task and Finish group or other body so delegated by an Overview and Scrutiny Board, may scrutinise and review decisions made, or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, the Committee or other body may require any member of the Cabinet, the Head of Paid Service and/or any Chief Officer or their nominated Officer(s) to attend before it to explain in relation to matters within their remit:

a) any particular decision or series of decisions; and/or
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. However, in the case of a Chief Officer, he/she may decide to send his/her substitute and will determine who that Officer will be.

12.2 Should any Member or Officer be required to attend a meeting of any overview and scrutiny body, the Chair of that body will inform the Chief Executive. The Chief Executive or their nominated Officer shall inform the Member or Officer in writing, giving at least five working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account.

12.3 If the account to be given to the overview and scrutiny body requires the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

12.4 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Overview and Scrutiny body shall, in consultation with the Member or Officer, arrange an alternative date for attendance to take place within a maximum of a further 10 working days from the date of the original request, where practical.

12.5 All Members and Officers must have regard to the Protocol for Member/Officer Working Arrangements contained at Part 5 of this Constitution.

13. Attendance by others

13.1 An Overview and Scrutiny body may invite people other than those Members and Officers referred to in Procedure Rule 12 above to address it, discuss issues of local concern and/or answer questions. Such people may be, for example, representatives from partner organisations, other stakeholders or members of the public. Attendance by those persons is entirely optional, except where attendance is required by law.

14. Call-in requests

14.1 Any matter decided by the Cabinet or by a Cabinet Board or Committee, or decision made by an individual Cabinet Member, may be called in no later than five working days after the date that the decision notice of Cabinet or the individual executive member decision was circulated to members.

14.2 Any two Members of the Council may apply, in writing, to the Chief Executive on the appropriate form for the matter to be called-in. Any matter called-in must be considered at the next meeting of the appropriate Overview and Scrutiny Board. On consideration of the called-in decision, the Committee may either

- dismiss the call-in thereby allowing the decision to proceed and be implemented; or
- concur, wholly or in part, with the call-in and refer the decision back to the decision taker for further consideration; or
- in the event that the Committee considers the decision falls outside the Council's Budget and Policy Framework, the Committee shall refer the matter to the Chief Executive who shall determine whether the issue should be considered by full Council.

14.3 Once the above procedure has been used and, in the event of a decision being taken in respect of a matter referred back to the decision maker, that decision cannot be reconsidered further through the call-in procedure.

14.4 Once a call-in application is made, it cannot be withdrawn after the expiry of the call-in period, namely after five clear working days following the publication of the decision. A signature to a call-in application can, however, be withdrawn before the five days but will only take effect if it is withdrawn in writing to the Chief Executive. If a signature is withdrawn, the proposer will be advised of this, and he/she will need to obtain an alternative signature and notify the Chief Executive within the five day period. If no signature is submitted within the five-day period, then the call-in application will not be a valid application and, as such, will be withdrawn.

15. Exemption from call-in

15.1 Notwithstanding the provisions of Access to Information Procedure Rule 14 (Cases of Special Urgency), the Chair of the relevant Overview and Scrutiny Board shall be advised of any decision pertinent to the terms of reference of that Committee that is taken by the Cabinet or a Cabinet Committee, Sub-Committee or Board, or by anybody or person taking a key decision, to exempt that decision from call-in on the grounds of urgency and of the reasons for that urgency. This will allow the Chair to consider whether the relevant Committee should subsequently consider either the decision, or the circumstances as to the urgency, or both.

16. Declarations of Interests and 'The Party Whip'

16.1 Members of Overview and Scrutiny bodies must have regard to the Members' Code of Conduct and the regulations relating to the declarations of interests. The Code and further details can be found in Part 5 of this Constitution.

16.2 The Party Whip" means any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or the application or threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote in any particular manner.

16.3 The Party Whip shall not apply from any of the political groups on their respective members on the Overview and Scrutiny Boards while taking part in overview and scrutiny business.

17. Matters within the remit of more than one Overview and Scrutiny Board

17.1 If a matter appears to fall within the remit of more than one Overview and Scrutiny Board, or there is disagreement as to the appropriate Committee

to consider a matter, the Statutory Scrutiny Officer, in consultation with the respective Overview and Scrutiny Board Chairs, will determine the appropriate body to consider the matter.

18. Member Development and Overview and Scrutiny

18.1 The Statutory Scrutiny Officer shall provide a brief outline of the Council's overview and scrutiny arrangements for all newly elected Members as part of their induction process. Training, support and information appropriate to the needs of Members, having regard to their responsibility to deliver effective overview and scrutiny, will be provided throughout the year.

Part 4 F
Financial Procedure Rules

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Note: All references to Council posts in these Contract Procedure Rules shall be read as a reference to the equivalent post at the relevant point in time.

For the purposes of these Financial Procedure Rules only, the following definitions apply:

Senior Officer refers to the Executive Director of Place (Deputy Chief Executive), the Executive Director Health and Care (Deputy Chief Executive), the Executive Director of Children and Young People, the Executive Director of Resources, Directors, Assistant Directors and Heads of Service.

Authorised Senior Officer refers to those specific officers under the approved Scheme of Delegation to Officers under part 3 of the Council's Constitution.

1. FINANCIAL GOVERNANCE

Council's responsibilities

1.1 The Council has a statutory duty to make arrangements for the proper administration of its financial affairs and to ensure that one of its officers has responsibility for the administration of those affairs. The Council has resolved that the Chief Financial Officer (the post is currently designated as the Director of Finance) is the responsible officer.

1.2 The Council is responsible for the approval of the Financial Procedure Rules to be used by all Members and officers, including any amendments or additions presented by the Director of Finance. The Council is responsible for approving the procedures for recording and reporting decisions taken by the Council itself, or by the Executive, or under approved delegation arrangements. The Scheme of Delegation, which includes financial limits, is set out in the Constitution at Part 3.

Cabinet's responsibilities

1.3 The Cabinet is responsible for ensuring that the Financial Procedure Rules are followed across the Council. The Cabinet is also responsible for arranging for a review of the Financial Procedure Rules following scrutiny by the Audit Committee at least every three years and for recommendations for any changes to be made to the Council. This is normally arranged through the Constitutional Working Group.

1.4 The Cabinet is responsible for preparing and recommending to Council the annual revenue budget and Council Tax level and once approved, for implementing and monitoring that budget.

1.5 The Cabinet is responsible for reviewing and recommending to Council a Capital Strategy and Capital Programme, a Medium Term Financial Strategy (which may be included within the Annual Revenue Budget Report), a Housing Revenue Account Budget, a Treasury Management Strategy and a Council

Tax Reduction Scheme, and once approved for implementing and monitoring the budgets and strategies.

1.6 The Cabinet is responsible for approving the Council's Risk Management Strategy and Framework and for reviewing the effectiveness of risk management arrangements.

Overview and Scrutiny responsibilities

1.7 The Council will identify a relevant Scrutiny Board or Boards to be responsible for scrutiny of the Administration's Budget proposals, including all related calculations, Policies and Strategies and for the forwarding of comments and recommendations on those matters to the Cabinet, prior to recommendation to Council.

1.8 The Council will identify a relevant Scrutiny Board or Boards to be responsible for the overview of the Council's in-year financial performance.

1.9 The Council will identify a relevant Scrutiny Board to provide appropriate oversight of key operational decisions which fall within their remit including key partnerships and grant programmes where required, in conjunction with the Audit Committee.

Audit Committee's responsibilities

1.10 The Audit Committee is responsible for reviewing the draft Annual Statement of Accounts and the Annual Governance Statement and approving the audited Council's Annual Statement of Accounts which incorporates the Annual Governance Statement. This Committee also provides oversight on the Council's Treasury Management Processes and practices, the Corporate Risk Management Strategy, Counter Fraud Suite of Policies, Internal Control matters and Information Governance including the role of the Senior Information Risk Owner and companies and partnerships (in conjunction with the appropriate Scrutiny Board).

Capital Investment Programme Board (CIPB)

1.11 The Capital Investment Programme Board has terms of reference which specify that it will oversee the preparation and the delivery of the capital strategy and capital programme by:

(a) Developing the overall Capital Strategy and annual programme in accordance with the priorities set out in the corporate plan

(b) Recommending the overall capital strategy and programme to Cabinet and Council

(c) Once the overall strategy and annual programme of expenditure has been approved at Council, the role of the CIPB is to:

i) Consider and recommend approval of the detail of the thematic programmes (e.g. Transport Capital Programme);

ii) Consider and recommend approval of any amendments to the annual programme;

iii) Recommend approval of any new capital projects;

iv) Undertake the detailed appraisal of projects, taking into consideration the Council's Capital Strategy, priorities and annual aims and objectives;

v) Review the potential commercial risk and Value for Money issues on any proposal for the use of capital expenditure or funding;

vi) Provide a forum for establishing and providing robust challenge and debate around the Capital Programme;

vii) Undertake a detailed annual review of the Capital Programme;

viii) Review the Council's Capital Programme on an on-going basis and to ensure it is achieving the agreed outcomes together with consideration of the financial monitoring report;

ix) Monitor the performance of projects and programmes within the Council's Capital Programme.

The CIPB oversees capital projects from inception to completion to ensure they are delivered efficiently and effectively and in line with the Council's corporate objectives.

The CIPB assesses all submissions for capital expenditure prior to them entering into the normal reporting process for approval. The Board therefore makes recommendations to the appropriate decision maker/forum, whether this is a Member or officer under delegated responsibility, Cabinet or Council.

The Director of Finance

1.12 The Director of Finance is responsible for the proper administration of the Council's financial affairs, and particularly for:

(a) maintaining a continuous review of the Financial Procedure Rules and the submission of any additions or changes necessary for Council approval;

(b) providing corporate financial advice and information to the Council i.e. on those issues where the Authority is regarded as one legal entity;

(c) setting standards for good financial management including the accounting policies and financial procedures and records for the Council and monitoring compliance with those standards;

(d) advising on the key financial controls necessary including maintaining an effective internal audit function to secure sound financial management;

(e) ensuring that proper systems of internal control are operated and reporting breaches of the Financial and Contract Procedure Rules to Council, Cabinet, Audit Committee, or the Standards Committee as appropriate;

(f) co-ordinating the preparation of the General Fund Revenue Budget and Medium Term Financial Strategy, the Housing Revenue Account Budget, Capital Strategy and Programme, the Treasury Management Strategy, the Council Tax Reduction Scheme, and once approved preparing reports to monitor budgets and strategies;

(g) preparing the annual financial statements in accordance with the relevant accounting standards and codes of practice and any necessary technical accounting adjustments ;

(h) treasury management activities, including reporting on prudential indicators;

(i) preparing a Risk Management Strategy and Framework and promoting/ embedding it throughout the Council;

(j) ensuring that the terms and conditions of grants awarded to the Council by Government and other public bodies and organisations, including the Greater Manchester Combined Authority, are complied with and that all grant claim forms are completed accurately and in a timely manner.

1.13 The Director of Finance also has a range of statutory duties, rights and responsibilities in relation to the financial administration and stewardship of the Council and will have regard to the Statement of the Chartered Institute of Public Finance and Accountancy on the Role of the Chief Financial Officer in Local Government

1.14 The Director of Finance must report to the Council under Section 114 of the Local Government Finance Act 1988, if:

(a) a decision has been made, or is about to be made, which involves the incurring of expenditure which is unlawful;

(b) there has been, or is about to be, an unlawful action resulting in a financial loss to the Council;

(c) anyone or anybody is about to make an unlawful entry in the Council's accounts; or

(d) it appears to him/her that the expenditure of the authority 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.

1.15 The Director of Finance may issue any instruction intended to fulfil these responsibilities and is entitled to any information or explanations as he/she may require.

1.16 The Director of Finance shall issue instructions and guidance to the Council in line with Section 25 of the 2003 Local Government Act, with regard to the robustness of the estimates.

Senior Officers

1.17 Senior Officers must ensure that proper financial controls are maintained in their service area.

1.18 Senior Officers must make arrangements to ensure that all officers involved in financial matters are aware of, and competent in the use of, these Financial Procedure Rules and the Council's financial ledger. The extent of delegated authority to officers must be recorded. See further guidance on the Scheme of Delegation in Part 3 of the Constitution. The main documents are also available on the Council's Website –

https://www.oldham.gov.uk/info/100004/about_the_council

1.19 Senior Officers must ensure that the financial implications of all proposals in advance of any "key decision" report have been subject to approval by the Director of Finance and their representatives and the subsequent report sets out the financial implications.

1.20 Senior Officers must ensure that the legal implications of all proposals in advance of the "key decision" report production have been subject to approval by the Director of Legal and the subsequent report sets out the legal implications.

Head of Paid Service (the Chief Executive)

1.21 The Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole. They must report to and provide information for the Council, the Cabinet; the Scrutiny Boards, and any other Committees of the Council. The Chief Executive is responsible for establishing the framework for management direction, style and standards and for the monitoring of performance for the organisation. The Head of Paid Service and the Monitoring Officer (the post is currently designated as the Director of Legal) are responsible for the system(s) of record keeping in relation to all the Council's decisions (see below).

Monitoring Officer (Director of Legal)

1.22 The Monitoring Officer is responsible for promoting and maintaining high standards of conduct, including about financial matters, and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of law or maladministration to the Council and/or to the Cabinet, and for ensuring that procedures for recording and reporting key decisions are operating effectively.

1.23 The Monitoring Officer must ensure that executive decisions and the reasons for them are made public as required by the Council's Access to Information Procedure Rules. The Monitoring Officer must ensure that Councillors are aware of such decisions made by the Cabinet, a Council Officer, or anyone else acting on the Authority's behalf, who have delegated executive responsibility.

1.24 The Monitoring Officer is also responsible for providing advice to anyone regarding who has responsibility or authority to take a particular decision. In relation to financial matters, s/he will consult with the Director of Finance before giving advice.

1.25 The Monitoring Officer is responsible for advising the Council or Cabinet about whether a decision is likely to be considered contrary to or wholly in accordance with the Policy Framework. Responsibilities for actions contrary to the budgetary framework lie with the Director of Finance.

External agencies and partnerships

1.26 Where, as a result of legislation or a decision of the Council or the Executive, as the case may be, part of the Council's or the Executive's functions are delivered by an associated organisation, funded partly or wholly by the Council, the organisation must submit for approval by the Council its own arrangements for corporate governance. These arrangements will incorporate the spirit of the Council's Financial Procedure Rules and will include the Council's right of access to financial information about the associated organisation and information of the Council processed by the third-party organisation. Whilst Cabinet is responsible for overall risk management and strategy, the Audit Committee and Scrutiny functions shall provide oversight of the specific Council risks in relation to partnerships as part of their governance role

1.27 Specific technical terms and conditions may be used when the Council is deemed the Accountable Body for external Government or other funding. Where the establishment of such terms and conditions is a condition of the funding, the obligations of and risk to the Council in its role will be set out in reports where approval to act as the Accountable Body is sought.

1.28 Schools with delegated budgets are subject to, and must comply with, the 'Oldham Scheme for Financing Schools', which has tailored these Financial Procedure Rules for use in those Schools.

1.29 A reference in the Financial Procedure Rules to the Director of Finance includes his or her nominees; and to an officer means any employee of the Council, or other persons contracted to carry out functions where these Financial Procedure Rules apply.

Staff and Councillors

1.30 All staff and Councillors within the Authority are required to maintain and provide the highest standards of financial management, integrity and administration in line with the Financial Procedure Rules. Their conduct is also set out in the relevant Codes of Conduct included at Part 5 of the Constitution which they must be aware of and comply with at all times.

Council Owned Companies

1.31 If the Council wants to set up on alternative delivery model for its services which involves the creation of a company including a Shareholding of the Council or the making of a loan, it can only do so following consultation on the implications with the Director of Finance and the Director of Legal.

2. PREPARING AND MANAGING THE REVENUE AND CAPITAL BUDGET

Financial Planning Framework

2.1 It is a legal requirement for the Council to ringfence and separately manage many of its financial resources and expenditure. The main "ringfenced" areas include:

- Housing Revenue Account income and expenditure;
- Income and expenditure relating to schools (including the Dedicated Schools Grant);
- Capital expenditure and resources;
- The Collection Fund (Council Tax and Business Rates income).

2.2 Any income or expenditure which does not fall within ringfenced categories is deemed to fall within General Fund (non-schools).

2.3 Ringfencing means that the Council is either not permitted or is heavily restricted in its ability to vire resources in or out of a particular ring-fenced area. For example, the Council is not generally permitted to use capital resources to fund revenue expenditure (an exemption to this exists for the period 2022/23 to 2024/25 whereby the flexible use of capital receipts permits the use of such resources to finance expenditure incurred on transformational activity).

2.4 The situation is further complicated by the fact that certain resources within each of the ring-fenced areas have to be earmarked to particular activities. For example, capital and/or revenue grants that have been provided specifically to finance particular schemes.

2.5 Having regard to all statutory ring-fencing arrangements, the Director of Finance, after consulting the Cabinet and Authorised Senior Officers shall be responsible for designing and implementing the annual budget and medium-term financial planning arrangements. The Director of Finance is responsible for the preparation of a corporate revenue budget and the provision of advice on the setting of a Council Tax, a Capital Strategy and programme, a Treasury Management Strategy, a Housing Revenue Account budget and a Council Tax Reduction Scheme.

Preparation of the Corporate Plan

2.6 The Chief Executive is responsible for proposing the Corporate Plan to the Cabinet for consideration before its submission to the Council for approval. When compiling the Plan, and in conjunction with other Authorised Senior Officers the Chief Executive will ensure that the plan is assessed and moderated by the Director of Finance.

Budget Preparation

2.7 The Director of Finance will advise the Cabinet of each year about the detailed plans to prepare both the Annual Budget for the next financial year or two years and to update the Medium Term Financial Strategy (which can cover a period of up to five years). The budget process will then be prepared following the standards set out by the Director of Finance.

2.8 The Director of Finance, following the detailed work, will submit to the Budget Council meeting (usually held in February) each year a Medium Term Financial Strategy for the following three to five years, and budget planning totals for all services and central budgets.

2.9 Senior Council officers will prepare budget reduction proposals for Members to consider, however, prior to final decision making, and in good time to allow meaningful consultation, the Council will make arrangements to consult with the public, partners, staff and business community on the budget reduction proposals being considered for future financial years.

2.10 The Cabinet, having regard to comments resulting from the consultation process outlined above (including those of the relevant Scrutiny Board), will consider these budget reduction proposals in detail and make its recommendations to the Council before the date set for the meeting of the Council which will determine the budget (Budget Council).

2.11 The Director of Finance will advise the Cabinet and the Council on the overall budget, the levels of Council Tax, the use of reserves and the need for contingency budgets/balances, the robustness of the estimates and affordability and prudence of capital investments and on the risks that may exist in relation to the forecasts of spending levels and income.

2.12 Senior Officers will, in accordance with the Business Planning timeframe, produce draft service plans and budgets in accordance with the Budget Planning totals. These draft plans will explain the service changes proposed to be made, taking into account the Council's Corporate Plan, performance targets and the resources allocated.

Resource Allocation

2.13 The general level of balances and reserves to be maintained by the Council shall be calculated and recommended for approval by the Director of Finance using a risk based approach in advance of the setting of the Budget for the approaching financial year. This will support the budget decisions being taken at the Council meeting which sets the Council Tax. The level of balances and reserves shall be subject to regular review in the budget monitoring reports presented to Cabinet during the financial year. At the year-end as part of the production of the Annual Statement of Accounts the Director of Finance shall assess the risks facing the Council and prepare the Accounts to minimise future unbudgeted expenditure including the assessment of required reserves in accordance with the Councils agreed policy on Reserves. The Reserves Policy will be subject to consideration of approval by Cabinet.

2.14 The Director of Finance is responsible for developing and maintaining a resource allocation process which: ensures due consideration of the Council's policy framework; and takes into account properly, current information on the Council's financial position and prospects for the future. It will also include an annual review of the budget to ensure that the resources allocated to each budget heading remain appropriate in the light of corporate priorities, business developments and national and local spending trends.

Reporting

2.15 The Cabinet is responsible for ensuring that Service and Corporate Plans are implemented within the resources allocated in the Revenue and Capital Budgets. The Director of Finance will provide information on the Council's performance against the Revenue and Capital Budgets to Cabinet and the relevant Scrutiny Board at regular intervals over the financial year. The report will include the projected out-turn for the agreed budgets, Collection Fund, Housing Revenue Account and Dedicated Schools Grant. In addition, and as appropriate, the Audit Committee and/or Scrutiny Board will receive reports that include financial information on key partners and the progress made on issues identified with the Annual Governance Statement.

2.16 The general format of the budget proposed by the Cabinet to Council will follow that advised by the Director of Finance. The draft budget should include indicative allocations to different services and projects, proposed taxation levels and any contingency funds/balances. The headings proposed will be those advised by the Director of Finance.

2.17 Senior Officers will control income and expenditure within their areas of responsibility. They will monitor performance, taking account of financial

information provided by the Director of Finance. They should report on actual variances within their own areas, and on the possible likelihood of them. They must also: alert the Director of Finance to any problems; consult with the Director of Finance about the remedial action necessary to avoid exceeding their budget allocations: and take the remedial action agreed.

2.18 CIPB is responsible for advising Cabinet on the overall financial commitments of the overall capital programme in accordance with the overall Capital Strategy agreed by Cabinet.

Managing Budgets

2.19 Senior Officers are responsible for managing budgets within their delegated authority. They must take action to avoid overspending respective budgets and report any difficulties to the Director of Finance.

2.20 Senior Officers should delegate authority to commit budgets to the appropriate level of management, make arrangements to set out clearly the extent of authority of managers, and review the performance of managers in managing and controlling these budgets.

2.21 Senior Officers must, in consultation with their financial support officers, use the financial reports from the financial ledger and review their budgets on a monthly basis. This must inform the regular budget monitoring undertaken by the Director of Finance.

2.22 The Director of Finance is accountable for all corporate and contingency budgets, which will be managed in the same way as service and activity budgets.

2.23 Where, as a result of a mistake or error by an officer, the Council becomes liable for any charges, penalties or additional expenses, such costs will be met by the Service in which the error is made.

Carry forwards and recovery of overspends

2.24 Carry forward is a mechanism for transferring budgetary resources from one year to the next, or vice versa. This will be determined during the production of the Statement of Accounts.

2.25 The Cabinet is responsible for approving changes to the Council's Revenue Budget arising from the carry forward process.

2.26 If the carry forward process is to be applied, there will be a presumption that the carrying forward of any underspending will only be allowed subject to a Directorate managing its resources in line with its agreed budget. All overspendings may be recovered in the following financial year following the advice of the Director of Finance.

2.27 The Council, in determining the Revenue Budget for a particular year, will review any arrangements for carry forward for that year and can change the guidance on advice from the Director of Finance.

Risk Management and Control of Resources

2.28 It is essential that robust, integrated systems exist to identify and evaluate all significant operational risks to the Council. These systems will be maintained by the proactive participation of everyone associated with the planning and delivery of Oldham Council's services to its residents.

2.29 The Director of Finance is responsible for preparing the Council's Risk Management Strategy and Framework, which includes the approach to ensuring proper insurance cover, and for promoting the Strategy and Framework throughout the Council, and for ensuring advice to the Cabinet Member with responsibility for Finance on appropriate insurance cover.

2.30 The Cabinet is responsible for approving the Council's Risk Management Strategy and Framework. Monitoring of the effectiveness of risk management is undertaken by the Audit Committee on behalf of the Cabinet.

2.31 Internal Control is the systems of control devised by management to help ensure the Council's objectives are achieved in ways which promote economic, efficient and effective use of resources and which ensure that the Council's assets and interests are safeguarded.

2.32 The Director of Finance will advise the Council at all levels on the requirements for an effective system of Internal Control. Arrangements devised and implemented will ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They will also ensure that public money is properly safeguarded; and is used economically, efficiently, effectively and in accordance with the statutory and other authorities which govern their use.

2.33 It is the responsibility of Senior Officers to establish sound arrangements 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. In doing this they must consult as necessary with the Director of Finance about matters past and present and future which bear upon the framework of Internal Control.

2.34 The CIPB will develop and maintain sound arrangements for managing the Council's Capital Programme in accordance with the instructions of the Cabinet.

Production of Accounts

2.35 The Director of Finance shall consolidate and produce the Authority's statutory accounts. Accounts will be prepared in accordance with the relevant statutory requirements (including timelines) and Codes of Practice.

2.36 Senior Officers shall assist the Director of Finance to undertake the closure of their Directorate accounts which must be in accordance with the standards, timescales and format set by the Director of Finance.

2.37 The Director of Finance is responsible for ensuring that the Annual Statement of Accounts is prepared in accordance with the CIPFA/LASSAC Code of Practice on Local Authority Accounting in the United Kingdom. This will include an assessment of the financial risks facing the Council.

2.38 The Audit Committee has delegated authority from the Council for approving the Annual Statement of Accounts.

2.39 The Director of Finance shall report to Cabinet and Council, after the accounts have been audited, the out-turn for the previous year for both the revenue and capital programme, identifying the out-turn against budget and the findings outlined in the Audit Completion Report prepared by the External Auditor.

Grants from third parties (other than from Central Government or GMCA)

2.40 Where a Senior Officer proposes to accept grant funding from a third party or taking on accountable body status, which exceeds the sum of £50,000, then the Senior Officer should, in advance of accepting the funding, seek an appraisal of that proposal which will involve the approval of the Director of Legal Services and Director of Finance.

2.41 Where the amount of the proposed third party grant exceeds the sum of £250,000, this will become a key decision and therefore a report to Cabinet will be required in order to gain approval to accept the funding.

3. CHANGES TO THE OVERALL AGREED REVENUE AND CAPITAL BUDGET

3.1 Senior Officers will propose items during their normal course of business which could have financial implications to increase the overall agreed net revenue and/or capital budget of the Council. Where the expenditure is capital, the revenue implications also need to be calculated. Notification of Government grant funding often arrives late, after the annual budget has been set and therefore outside the normal budget approval cycles. Such grant notifications also often have short acceptance timeframes. If the net impact of a Government grant is neutral (i.e., the grant covers in full the anticipated expenditure) to the overall agreed budget, then the grant can be accepted, and funding committed in accordance with the grant conditions.

3.2 Where there is additional cost to the Council, then in each case the potential commitment needs to be fully costed setting out the impact on the budget with details of how any additional cost will be financed and its performance effect. Where appropriate and after consultation with the Director of Finance, a report must be presented to Cabinet for consideration, but a capital matter must first be considered at the CIPB.

3.3 Any motion or report submitted to the Council which, if carried, would increase the Council's net revenue or capital budget or might otherwise contravene Financial Procedure Rules shall stand adjourned without debate and be referred to the Cabinet to receive a report on the detailed financial implications. When the Council reconvenes to consider the motion or report, it shall receive the recommendation of the Cabinet on the matter before making a decision on the motion or report and on whether to effect any change to the Council's approved Budget.

3.4 In the event of urgency, the Council may consider such an item without delay on receipt of a report from the Cabinet Member with responsibility for Finance as to the financial implications.

3.5 All proposals which involve a change to the overall revenue or capital budget need to be considered in accordance with the advice of the Director of Legal Services and Director of Finance.

Virements

Revenue Budget Virements

3.6 The Cabinet is responsible for agreeing procedures for virements (the transfer of resources) between department, earmarked reserves and service budget headings. The framework that exists ensures that virements which are associated with a significant change in the level of service from that set out in the service plan must be approved by the Member with Portfolio in consultation with the relevant Authorised Senior Officer. However, the Director of Finance may approve virements to address identified budgetary challenges having regard to the financial position of services and the Council has a whole.

3.7 The Director of Finance may approve an increase in an approved Department budget by a transfer from another approved Department budget under the control of another Authorised Senior Officer where: -

(i) both budget heads are cash limited; and

(ii) the variation does not exceed £250,000 and therefore not a Key Decision .

3.8 Authorised Senior Officers, are authorised to transfer resources within a service budget subject only to the maximum amount of virement on any one activity not exceeding 5% or £50,000, whichever is the smaller. Where the aggregate of such virements exceeds £250,000 in a financial year, and if in the opinion of the Director of Finance it is appropriate to do so, the Director of Finance and the appropriate Authorised Senior Officer will jointly report to the relevant Member with Portfolio and the Cabinet Member with responsibility for Finance and be considered for approval by the Director of Finance .

3.9 Authorised Senior Officers may approve a virement into an approved budget head under their management control by a transfer from another approved budget head where: -

(i) both budget heads are cash limited; and

(ii) the virement does not exceed £100,000.

Authorised Senior Officers are responsible for formally approving, and for notifying to the Director of Finance, the record of their approval to in-year virements within service budget headings, and within the limits delegated to them.

3.10 Authorised Senior Officers must consult with the Director of Finance about all virements above their approved, delegated limits before allowing any action in respect of them to take place. All virements above the above limits (ie £250,000) must be approved by Cabinet.

Note - "Approved budget" above means the original provision made when the annual budget was approved by Council, plus or minus any variation which has been approved subsequently.

Capital Budget Virements

3.11 Council has agreed that CIPB will make recommendations on virements within the overall agreed capital plan, between programme areas and within approved programme areas. Cabinet will approve any virements which are Key Decisions (those over £250,000) with virements below this level approved by the Executive Director of Place (Deputy Chief Executive) in consultation with the Cabinet Member with responsibility

for Finance, the Director of Finance, and the relevant Cabinet Member for the service area. Any virement above £250,000 must be approved by Cabinet.

3.12 Whenever a project is to be funded via prudential borrowing it shall be done in accordance with the Council's Treasury Management Strategy.

Virements – General Protocols

3.13 The Director of Finance will report as part of the regular budget monitor to the Cabinet and the relevant Scrutiny Board, summarising any variations of the annual estimates including transfers to and from earmarked reserves for consideration at that meeting.

3.14 A virement is specifically not allowed where the transfer of resources is from budgets for capital charges and statutory taxes and levies.

3.15 All virements will be recorded in a way prescribed by the Director of Finance, who will arrange for virements to be reported to, and agreed where required by Cabinet.

3.16 Senior Officers are authorised to incur any expenditure included in the approved revenue budget for the Service, as amended by any virement.

4. CAPITAL PLAN PREPARATION AND MANAGEMENT

Responsibilities

4.1 The Council is responsible for agreeing the overall allocation of resources to the Council's Capital Strategy and Programme.

4.2 The Cabinet is responsible for recommending to the Council a multi-year Capital Strategy and Programme. The CIPB undertakes overall management oversight for the Capital Strategy and Capital Programme on behalf of the Cabinet.

Capital Strategy and Programme Preparation

4.3 The Cabinet will submit to the Council each year a multi-year Capital plan with planning totals for the main programme areas for at least the three following years, to align with the Medium Term Financial Strategy.

4.4 The Capital Investment Programme Board determine the criteria for the selection of projects to form the Capital Programme. This will assist the Director of Finance to prepare a programme of capital schemes for consideration by the CIPB, Scrutiny Board and then by Cabinet.

4.5 The Cabinet will recommend, and Council will approve the initial allocations to projects and programme areas.

4.6 CIPB will recommend the subsequent allocations of resources from programme areas to projects within the overall total agreed by Council.

4.7 The Director of Finance will advise the Cabinet and the Council on the overall Capital Programme and levels of funding available.

4.8 Senior Officers are responsible for providing details of all projects in a format prescribed by the Director of Finance.

Capital Programme Management

4.9 The Cabinet is responsible for implementing the Capital Programme within the resources allocated. The Cabinet will provide summary monitoring information to the Council when required. The CIPB delivers the detailed implementation of the Capital Programme. CIPB operates in accordance with the principles set out in these Financial Procedure Rules.

4.10 The CIPB will recommend capital budget virements in accordance with the protocol set out at paragraph 3.5

4.11 The Leader of the Council in consultation with the Chair of the CIPB , may also delegate authority under Financial Procedure Rules 4.10 to individual Cabinet members, in consultation with key statutory officers. The Leader of the Council, in consultation with the Chair of the CIPB is required to determine arrangements for delegation, which may differ between service areas. The Leader, in consultation with the Chair of the CIPB, may delegate to Directors authority to exercise virement within a programme area, provided that: -

(a) the spending on the whole programme area being contained within the resources allocated;

(b) Directors report retrospectively to Cabinet on the use of this authority as part of the regular monitoring on the Capital Programme.

Such delegations will be recorded in a scheme of delegation to Cabinet members included at Part 3 of the Constitution.

4.12 All virement will be recorded in a way prescribed by the Director of Finance, who will arrange for virements to be reported to the Cabinet.

4.13 Senior Officers are responsible for managing programmes and projects. They must take action to avoid overspending the amounts provided in the Capital Plan and report any difficulties to the Director of Finance.

4.14 Senior Officers must prepare regular reports on the progress of projects in a format and to a timetable prescribed by the Director of Finance.

4.15 The Director of Finance will report to the Cabinet and the relevant Scrutiny Board on the projected overall out-turn of the Capital Programme as part of the regular budget monitoring reports.

4.16 The inclusion of a project within the Capital Programme confers authority to proceed with planning applications and the completion of feasibility studies and option appraisals.

4.17 Senior Officers must prepare a business case in respect of each project before proceeding to detailed project design or land acquisition. The business case should be prepared in a format prescribed by the Director of Finance and must be considered by the CIPB. The Cabinet will in some instances decide that the business case should be prepared for a whole programme area, or a group of projects. The Cabinet may delegate its authority to approve business cases to Authorised Senior Officers in consultation with Cabinet members or CIPB.

4.18 Once a business case is approved, Senior Officers are authorised to proceed to detailed design and to commit to contracts providing:

(a) that the total costs of a project including tenders or quotations, fees etc, are estimated to be less than or equal to the amount approved in the business case and the Capital Programme;

(b) that where the total costs of a project exceed the amount approved in the business case and the Capital Programme and the excess is within the agreed tolerance levels, the appropriate virement has been approved to finance the additional cost;

(c) all necessary external approvals, if any are required, have been obtained;

(d) the incurring of the expenditure has been authorised by the Director of Finance;

(e) that any contract shall be executed in accordance with the Contract Procedure Rules.

4.19 The tolerance levels set out in Financial Procedure Rule 4.18(b) will be calculated at 10% of the approved estimate or £25,000 whichever is the greater. If this tolerance level is exceeded the approval to proceed must be sought by reporting to Cabinet (which may be by inclusion of the issue within the regular capital monitoring report).

4.20 The Director of Finance will authorise the incurring of the full project costs provided he/she is satisfied that the approval will not give rise to any further expenditure not provided for in either the Capital Programme or the Revenue Budget.

4.21 During the completion of corporate projects totalling £250,000 and over, Senior Officers must co-operate with any requirement to complete a gateway

review and the production of reports to CIPB setting out the outcomes from the project and whether these match the planned outcomes set out in the original business cases. Further phased expenditure on a project cannot be agreed until an appropriate business case has been approved by CIPB and an appropriate report produced as per agreed delegations.

5. FINANCIAL SYSTEMS AND PROCEDURES

5.1 The Director of Finance is responsible for setting the standards of the operation of the Councils accounting and financial systems, the form of accounts and the supporting financial records. Any changes to the existing financial systems, processes or procedures; or the establishment of new systems to meet the specific needs of a Service must have prior written express approval of the Director of Finance before being implemented.

5.2 Senior Officers and key partners must ensure that officers understand and are competent to undertake their financial responsibilities and receive relevant financial training that has been approved by the Director of Finance

5.3 Senior Officers and key partners are responsible for the proper operation of financial processes in their own departments and must ensure that all financial, costing, and other statistical information is recorded fully and accurately.

5.4 Senior Officers and key partners must ensure that financial documents are retained in accordance with the Council's approved retention schedule.

5.5 As far as practicable, Senior Officers must make arrangements for the separation of duties between the carrying out of transactions and the examining and checking of transactions.

5.6 Any departure from using corporate accounting and financial systems must be approved and justified on cost/service grounds to the Director of Finance before the commitment to change is agreed.

5.7 Authorised Senior Officers together with key partners must ensure that, when appropriate, computer based, and other systems are registered in accordance with Data Protection Legislation and that staff are aware of and fulfil their responsibilities under freedom of information legislation.

5.8 Grant claims, financial returns and submissions must be completed by the relevant Senior Officers and/or appropriate Finance Officers and authorised by the Director of Finance or their designated representative prior to submission to a Government Department or other external agency.

5.9 Where there is a requirement for the certification by the Chief Internal Auditor, Director of Finance or the Chief Executive, of grant related expenditure incurred by the Council, this should be obtained by the Service in advance of the submission of the certified grant claim.

5.10 Any proposals to use leasing to finance any expenditure within the Council, excluding schools' budgets, should be subject to review by the Director of Finance or their representative to ensure the financial implications receive appropriate consideration.

6. INTERNAL AUDIT AND COUNTER FRAUD

Responsibility & Authority

6.1 Under the Accounts and Audit (Amendment) Regulations 2022 the Director of Finance must arrange and direct a continuous Internal Audit, which is an independent review of the accounting, financial and other operations of the Council. The Public Sector Internal Audit Standards (PSIAS) ("Standards") came into effect on 1 April 2013, replacing the 2006 Code of Conduct, and was then revised in 2017. The Standards are mandatory for all central government departments, local government and agencies and have been developed based in global and national best practice. They are intended to promote professionalism, quality, consistency and effectiveness of Internal Audit across the public sector and for local authorities, are supported by CIPFA. Therefore, the scope, objectives and operation of Internal Audit in Oldham is that recommended by CIPFA and set out in the Standards.

6.2 The Chief Internal Auditor (the Head of Internal Audit and Counter Fraud performs that role for Oldham Council), or role(s) designate will report directly to the Chief Executive and the Chair of the Audit Committee in any circumstance where the functions and responsibilities of the Director of Finance are being reviewed. The Standards note that a professional, independent and objective internal audit service is one of the key elements of good governance, as recognised throughout the UK public sector. The Chief Internal Auditor, in accordance with the PSIAS, will provide an Annual Opinion on the overall internal control environment of the Council to the Audit Committee.

6.3 Internal Audit and Counter Fraud Staff have the authority to:

(a) enter at all times any Council premises or land or location from which Council services are provided;

(b) have access to all property, records, documents and correspondence relating to all activities of the Council;

(c) require and receive explanations concerning any matter; and

(d) require any employee of the Council, without prior notice, to produce cash, stores or any other property for which they are responsible.

Reporting

6.4 The Director of Finance must report upon:

(a) the risks inherent in and associated with the operational/service processes and information technology;

(b) the soundness, adequacy and application of the financial and other management controls and systems within each Service;

(c) the extent of compliance with, and the financial effects of, established policies, plans and procedures;

(d) the extent to which the organisation's assets and interests are accounted for and safeguarded from losses of all kinds arising from fraud, other offences, waste, extravagance and inefficient administration, poor value for money and other cause;

(e) the suitability, accuracy and reliability of financial and other management data within the organisation; and

(f) value for money aspects of service provision.

6.5 In respect of any Internal Audit and Counter Fraud report or communication issued, the Senior Officer, and/or their nominated deputy, must reply within 3 weeks indicating the action proposed or taken, by whom and including target dates. Where a draft report is issued for initial comments a reply must be made within 2 weeks of issue.

6.6 Authorised Senior Officers responsible for an area of service provision / financial or other management system which is the subject of Internal Audit recommendations, must respond to Internal Audit and Counter Fraud requests for progress and status updates against previously agreed Internal Audit recommendations. This requirement exists until all recommendations are actioned satisfactorily.

6.7 The Chief Internal Auditor will report to the Audit Committee on a cyclical basis about the findings of Internal Audit and Counter Fraud, the progress on issues in the Directorate Risk Register and Assurance Statements in each of the Directorates. The Chief Internal Auditor will report the Annual Report and Opinion on the System of Internal Control for the year ended 31st March (year, as relevant) to the Audit Committee.

Investigations and Suspected Fraud or Corruption

6.8 The Chief Internal Auditor is responsible for the provision of an appropriate Counter Fraud service to minimise fraud risks and to investigate potential fraud and corruption. The Counter Fraud service at Oldham Council operates as recommended by CIPFA. The Cabinet Office also provide guidance on professional Counter Fraud standards across the public sector, and such guidance is followed in Counter Fraud activities undertaken by Oldham Council.

6.9 The Director of Finance is responsible for the development and maintenance of the Counter Fraud suite of strategies and for directing the Council's efforts in fraud investigation. The Director of Legal supported by the Head of Internal Audit is responsible for the development of the Whistleblowing Policy and the Chief Internal Auditor is responsible for the assessment of Whistleblowing disclosures against the Public Interests Disclosure Act 1998 and reporting disclosures to the Monitoring Officer.

6.10 Authorised Senior Officers must ensure that all Members and employees are:

a) aware of the Council's Anti-Fraud and Anti-Corruption Strategy;

b) aware of the Whistleblowing Policy;

c) operating in a way that maximises internal check against inappropriate behaviour; and

d) able to undertake the on-line training package on preventing fraud supported by the Council.

6.11 It is the duty of any officer who suspects or becomes aware of any matter which may involve loss or irregularity concerning cash, stores or other property of the Council or any suspected financial irregularity in the operations or exercise of the functions of the Council to immediately advise their Head of Service/Senior Office. The Head of Service/Senior Officer concerned must immediately notify the Director of Finance who may take action by way of investigation and report.

6.12 Where, following investigation, the Director of Finance considers that there are reasonable grounds for suspecting that a loss has occurred as a result of misappropriation, irregular expenditure or fraud, consultations will be held with the Head of Service/Senior Officer on the relevant courses of action, including the possibility of police involvement and the invoking of any internal disciplinary procedure in accordance with the relevant conditions of service.

6.13 Where there are sufficient grounds to believe that a criminal act may have been committed and it is agreed to refer the matter to the Police for investigation, this should be recorded on a central log of “matters referred to the Police” maintained by Internal Audit and Counter Fraud.

6.14 The Chief Internal Auditor shall on an annual basis maintain and update the Fraud and Loss Risk Assessment of the Council.

7. INSURANCE

7.1 The Director of Finance, in consultation with Senior Officers is responsible for assessing insurable risks and for arranging all insurance cover, including the management and control of the insurance fund. He/she will control all claims and maintain records of them.

7.2 Senior Officers and specifically managers of key Regeneration Projects must promptly notify the Director of Finance in writing of all new risks or assets to be insured and of any alterations affecting existing insurances. All insurances held must be reviewed on an annual basis.

7.3 In the event of any insurance claim or occurrence Senior Officers must:

(a) not admit liability where this may prejudice the outcome of any settlement;

(b) promptly notify the Insurance Portfolio Manager in writing, of any loss, liability, damage or any event likely to lead to a claim; and

(c) inform the Police in the case of loss or malicious damage to Council property.

7.4 Senior Officers must consult the Director of Finance and the Director of Legal Services as to the terms of any indemnity the Council is required to give.

7.5 The Director of Finance will determine the extent of insurance cover in line with Contract Procedure Rules which must be provided for in any external contract for the supply of goods, works or services. The Director of Finance/Assistant Director of Finance, in consultation with the Senior Officer,, may reduce the cover requirements in respect of specific contracts.

8. ASSETS

8.1 Senior Officers are responsible for the care and custody of all current and fixed assets of the relevant service (including stocks, stores, inventory items and all other items used for the Council's purposes, including property). These items must only be used for the authorised purposes of the Council. Assets must be recorded in Oldham Council's Asset Register, in accordance with the CIPFA Code of Practice.

8.2 Senior Officers must ensure that contingency plans exist for the security of assets and the continuity of service in the event of any disaster, significant event, or system failure. Whilst the Council's Emergency Plan, Business Continuity Plans and its Disaster Recovery Plan for Information Systems are the main devices to be used and followed by Authorised Senior Officers, they are not exhaustive, and should be added to or improved upon by them when necessary.

Disposal of Assets

8.3 Surplus or obsolete goods, materials and inventory items are to be disposed of by agreed transfer to another Service, a Community Asset Transfer, competitive sale or public auction in accordance with both Contract Procedure Rules and the Land and Property Protocols, except when the Cabinet instructs otherwise. Where appropriate, the Council's Asset Register should be amended accordingly.

8.4 Leased items should only be disposed of in accordance with the instructions of the lessor.

Stores

8.5 Senior Officers must keep records of all stock items in excess of £100 held and certify the value for accounting purpose at 31 March of each year. The Director of Finance will determine which items will be subject to stock accounting, the methods of recording and valuation.

8.6 Senior Officers must arrange periodical or continuous checks of stock. This should be by persons independent of the management of the stock. These arrangements must ensure that all items of stock are checked at least once per year. The Director of Finance will be notified of any discrepancies revealed by periodic checks and is authorised to amend records accordingly.

8.7 Stock holdings should be kept at minimum levels consistent with normal working practices

Inventories

8.8 Senior Officer are responsible for ensuring that detailed inventories of all land, buildings, equipment, furniture, fittings, vehicles, plant and machinery are compiled and kept up to date. New inventory items must be entered promptly, and redundant items deleted and disposed of in accordance with Financial Procedure Rule 8.3. The form of inventory and the type of assets recorded thereon will be determined by the Director of Finance after consultation with the appropriate Senior Officer.

8.9 The inventory should include:

(a) the nature, type, model, serial number, location, quantity, value, date of acquisition;

(b) all items of, or collection of similar items valued at, more than £100;

(c) items of a lesser value which are portable and attractive; and

(d) evidence to indicate an annual inspection has been carried out.

8.10 When Council assets are loaned to employees, other Council services or other organisations, the Senior Officer must record the reason for the loan, date/periods and name of the receiver.

8.11 Inventory items must be security marked, stamped or engraved with the Council's name.

8.12 Each Senior Officer is responsible for ensuring that an annual check is made of all items on the inventory and must notify the Director of Finance of any discrepancies revealed by these checks.

Asset Register

8.13 The Director of Finance must ensure that an Asset Register in accordance with agreed auditing standards is maintained. This will include all land and property

8.14 Each Senior Officer must immediately notify the Director of Finance of the acquisition of any asset having a value of £10,000 or more.

8.15 Each Senior Officer must immediately notify the Director of Finance of the disposal (or transfer to another Service) of any asset (or part of any asset) which is included on the Asset Register.

8.16 In respect of any item acquired by lease the inventory must be marked with the name of the leasing company and the date of expiry of the lease agreement. When requested by the leasing company the item must be suitably marked as the property of that company.

Land and Property Assets

8.17 The Executive Director of Place (Deputy Chief Executive) must ensure that the detailed record of all land and property owned by the Council is included in the Councils Asset Register.

8.18 The Director of Legal is responsible for the security and custody of all title deeds and must maintain a suitable register.

8.19 The disposal of land and property is dealt with additionally in Contract Procedure Rules and through the Land and Property Protocol.

9. SECURITY

Security of Assets

9.1 All staff are responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash and any other assets for which they are responsible. The Director of Finance must be consulted to establish adequate security arrangements.

9.2 All keys to safes and other places containing money, goods or other valuables are to be the responsibility of specified officers who must retain possession of such keys at all times. A register of keys and their holders must be maintained by each Senior Officer. The loss of any key must be reported immediately to the Senior Officer who must record details of the circumstances of the loss, and take such action as is necessary to protect the property of the Council.

9.3 Maximum limits for cash holdings in each separate establishment are to be agreed with the Director of Finance and must not be exceeded without permission.

Security of Information

9.4 All staff must maintain proper security, privacy and use of information held in computers and all other recording systems under their control. Senior Officers must ensure that:

(a) all employees are aware of and comply with the Council's Information Security and Information Management policies;

(b) all sensitive information is protected from unauthorised disclosure;

(c) the accuracy and completeness of information and software is safeguarded;

(d) software and other intellectual property is used only in accordance with licensing agreements;

(e) Data Protection legislation is complied with;

(f) the Freedom of Information Act and Environmental Information Regulations are complied with;

(g) proper controls to system and physical access are in place;

(h) the Councils intellectual property rights are protected; and

(i) data taken off site by staff has the appropriate security such as encryption in place to protect the data should it be lost.

Security of Property Relating to Clients and Customers

9.5 Senior Officers must provide detailed written instructions on the collection, custody, investment, recording, safekeeping and secure disposal of customer/clients' property (including instructions on the disposal of property of deceased clients) for all staff whose duty is to administer, in any way, the property of clients. Due care should be exercised in the management of a customer or clients' money in order to maximise the benefits to the customer/client.

9.6 The Council is responsible for taking reasonable care of all items of property found by staff or members of the public on Council premises until the items are reclaimed or disposed of. Each Senior Officer must nominate officers who are responsible for the custody of lost property and keep a register of such property received, detailing the item, date, time, name and address of finder and how and to whom the property is returned or disposed of.

9.7 The Information Management Team must be informed of any loss for which the Council is the data controller, in line with the Security Incident Management policy.

9.8 Senior Officers may seek Cabinet authority on how lost property will be dealt with. Otherwise, if the lost property is not claimed within three months it vests in the Council. The Head of Service will then determine if the item is of value for use by the Council and arrange for its use for this purpose. All other items are to be disposed of by sale in accordance with Contract Procedure Rules.

Security Passes

9.9 All staff who are located in offices are responsible for accessing the building in accordance with management instruction. This will include keeping their staff security badges secure and reporting any loss promptly to their line manager.

10. TREASURY MANAGEMENT

Policies and Strategies

10.1 The Council has adopted requirements of the Ministry of Housing, Communities and Local Government (MHCLG), now the Department of Levelling Up, Housing and Communities [DLUHC] Investment Guidance, the MHCLG Minimum Revenue Provision Guidance, the Chartered Institute of Public Finance and Accountancy (CIPFA) Prudential Code and the CIPFA Treasury Management Code.

10.2 The Council is responsible for adopting:

(a) A treasury management policy statement, setting out the policies and objectives of its treasury management activities, and treasury management practices, setting out how those policies and objectives will be achieved and how treasury management will be managed and controlled;

(b) An Annual Investment Strategy, determining the type and level of investments to be entered into over the coming year together with a policy on risk management and a creditworthiness policy, and the level of investment in specified and non-specified investments;

(c) The Minimum Revenue Provision policy (in line with Government Guidance) and the Borrowing Strategy.

10.3 The Director of Finance will prepare a report before each financial year recommending a treasury management strategy and investment plan, and subsequently an annual report after the end of the year. In addition, there will

be a treasury management update at the end of quarters 1, 2 and 3 including performance in relation to prudential indicators. Each of these reports must be considered by Cabinet where there will be a recommendation to Council where there will be final approval.

10.4 The Audit Committee is responsible for the review of treasury management policies, procedures and practices and reviewing all treasury management reports (including reports presented to Cabinet and Council). The relevant Scrutiny Board will also undertake scrutiny of the Annual Treasury Management Strategy Report as part of its budget scrutiny function.

10.5 The Director of Finance is responsible for the execution and administration of treasury management decisions in accordance with the policy statement and agreed practices as set out at in the Treasury Management Strategy Statement report presented to Budget Council.

Administration

10.6 All money under the management of the Council is to be aggregated for the purposes of treasury management and will be controlled by the Director of Finance.

10.7 Investments other than bearer securities are to be in the name of the Council or nominee approved by the Cabinet. All borrowings are to be in the name of the Council.

10.8 The Director of Finance will select the Council's Registrar of stocks, bonds and mortgages and must maintain records of all borrowings by the Council.

10.9 A suitable register must be maintained in respect of all investments, securities, bearer securities and borrowings.

10.10 The Director of Finance will arrange all loans. The Director of Finance is to be informed of all leases entered into by Senior Officers.

Trust Funds

10.11 All trust funds are to be, wherever possible, in the name of the Council. Officers acting as trustees by virtue of their official position must deposit all documents of title relating to the trust with the Director of Legal Services (unless the Trust Deed otherwise directs) who must maintain a register of all such documents deposited.

11. BANKING ARRANGEMENTS, CHEQUE SIGNING AND IMPREST ACCOUNTS

Banking Arrangements

11.1 All of the Council's banking arrangements are to be approved by the Director of Finance, who is authorised to operate such bank accounts as he or she considers appropriate.

11.2 Bank accounts must not be opened without the approval of the Director of Finance. Where a bank account is opened, the account name must describe the purpose of the account. All new accounts should be named in the format Oldham MBC, XYZ Account.

Cheques and Electronic Payments

11.3 Payments to suppliers and employees will all be made by electronic means unless there is specific agreement with the Director of Finance to use another method.

11.4 All cheques are to be ordered only in accordance with arrangements approved by the Director of Finance, who is to ensure their safe custody. Cheques drawn on the Council's main bank accounts must either bear the facsimile signature of the Director of Finance and or be signed in manuscript by him/her or other authorised officers. All alterations and amendments are to be signed in manuscript by the Director of Finance, or other authorised officers.

11.5 Banking arrangements made for authorisation of payments to be made or received under electronic transfer are to be in a form approved by the Director of Finance.

11.6 There will only be cash advances made in relation to money for clients associated with care or specific exemptions agreed by the Director of Finance.

Imprest Accounts

11.7 Senior Officers will determine what amount is appropriate for an individual imprest subject to any limit set by the Director of Finance, and keep a record of every imprest issued, including the name of the imprest holder, amount and location.

11.8 Any imprest holder (or sub imprest) must at any time account for the total imprest if requested to do so by the Director of Finance and keep adequate records in a form approved by the Director of Finance and supported by valid (VAT) receipts. On ceasing to be responsible for an imprest account the officer must account promptly to the Senior Officer for the amount advanced.

11.9 Payments from imprest accounts are to be limited to minor items of expenditure and to any other items approved by the Director of Finance.

11.10 Where deemed appropriate by an imprest account holder a sub-imprest may be provided to another officer for which the main imprest account holder must obtain and retain an acknowledgement. In all cases where this occurs the main imprest holder must notify the Senior Officer.

12. INCOME

12.1 The Revenue Budget report presented to the relevant Scrutiny Board for scrutiny prior to the start of each financial year will include proposals for fees and charges, including any amendments, for the forthcoming financial year. This will be prepared by the Director of Finance in consultation with Heads of Service/Directors. After comments from the Scrutiny Board, the final approval of fees and charges will align with the budget process, with a report to Cabinet with a recommendation to Council. Any amendments in year should be reported to Cabinet for approval.

12.2 The methods of collecting, recording and banking of all income due to the Council are to be approved by the Director of Finance.

12.3 The Director of Finance must be notified, in accordance with practices agreed with the relevant Senior Officer, of all income due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council.

12.4 Senior Officers must ensure that to the maximum extent possible income is collected by electronic means.

Collection and Banking of Income

12.5 Senior Officers must make appropriate arrangements for the control and issue of all receipt forms, books, tickets, ticket machines or other acknowledgements for money.

12.6 All income received by the Council must be acknowledged by the issue of an official receipt or by another approved method indicating payment has been received.

12.7 All money received by an officer on behalf of the Council must be paid to the Council's bank account as the Director of Finance may determine, at regular intervals taking account of the security of the premises. No deductions are to be made from such monies unless specifically authorised by the Director of Finance. Personal cheques must not be cashed out of monies held on behalf of the Council. Refunds must be made through the payments system.

12.8 Arrangements for opening incoming mail must ensure that any money so received is immediately recorded.

12.9 Every transfer of official money from one officer to another must be evidenced in the records of the services concerned by the signature of the receiving officer.

12.10 All requests to collect income using card machines require the approval of the Director of Finance. The Service requesting the card machines shall fund, from their own budgets, any expenditure required so the process is compliant

where practicable with the Payment Card Industry Data Security Standard (PCI DSS).

Discrepancies in accounting records

12.11 Each Senior Officer must maintain a detailed record of all discrepancies in records including cash surpluses and deficiencies in a manner approved by the Director of Finance, and these must be recorded in the Council's accounts.

12.12 The Senior Officer must investigate any apparent patterns of discrepancies.

12.13 Where such discrepancies are in excess of £100 individually, or in total within any period of 1 month, the Senior Officer concerned must immediately investigate and notify the Director of Finance who may undertake such investigations as he/she deems appropriate.

Debtors

12.14 Wherever possible, payment should be obtained in advance or at the time of provision of a service, goods, letting or works.

12.15 Where credit is given, Senior Officers must ensure that the credit status of each customer is satisfactory. Senior Officers are responsible for arranging for staff to raise debtor accounts using the financial ledger approved by the Director of Finance immediately a debt falls due. Each Head of Service, in conjunction with the Director of Finance must maintain adequate records to ensure that all credit income due to the Council is promptly recovered. Where services are proposed through the year's accounts, they should be raised on a monthly basis to the body in receipt of the service.

12.16 Authorised Senior Officers must each identify employees authorised to act on their behalf, or on behalf of the Cabinet, in respect of: income collection, together with the limits of each person's authority.

Debts including Council Tax, Business Rates, Sundry Debt, Housing Benefit Payments

12.17 The Assistant Director responsible for managing the collection of Council Tax, Business Rates, Sundry Debt (including debt relating to the corporate estate and Adult Social Care) and Housing Benefit Overpayments shall regularly review the level of debts due from these activities and ensure, in conjunction with the service that has raised the debt and the Director of Finance, that there is an adequate level of provisions required for bad and doubtful debts. Authorisation of write off for individual debts will be agreed with the service that has raised the debt and action taken as follows:

a) individual debts less than £100 by officers within the Accounts Receivable Service following consultation with the debt raising service. At the end of each quarter of the financial year, the Assistant Director shall submit a report to the Director of Finance detailing these write offs;

b) individual debts up to £5,000 by the Assistant Director following consultation with the debt raising service . At the end of each quarter of the financial year, the Assistant Director shall submit a report to the Director of Finance detailing these write offs;

c) individual debts up to £10,000 by the Director of Finance.

d) individual debts up to £30,000 by the Director of Finance in conjunction with the Cabinet Member with responsibility for Finance;

d) individual debts over £30,000 by Cabinet.

12.18 For debts other than those covered in 12.17 above, the authorisation limits for individual sundry debts are as follows:

a) individual debts up to £10,000 by the relevant Authorised Senior Officer in conjunction with the Director of Finance;

b) individual debts over £10,000 by Cabinet; and

c) relevant Authorised Senior Officers should review the requirement for write off on a quarterly basis and provide that information to the Director of Finance

12.19 As part of the closure of the final accounts the Director of Finance shall undertake a detailed review of the outstanding debts owed to the Council and write off amounts that the Director deems irrecoverable prior to the draft annual accounts being submitted to the Audit Committee for approval. The individual debts written off as part of this process shall be reported to the Cabinet Member with responsibility for Finance.

12.20 The 'writing off' of a debt does not absolve a Senior Officer or a Service of the responsibility to collect such debts, and the position in relation to such debtors is to be monitored by the Senior Officers.

12.21 Where the Director of Finance considers that individual services have not raised debtors accounts in a prompt manner the officer may calculate the interest lost to the Council and charge this amount to the service budget.

12.22 On an annual basis (and more frequently if required) Senior Officers will review the level of debtors' accounts in their particular area which remain unpaid. This will be discussed with the Director of Finance and/or their representative and provision made for any amounts which require a bad debt provision at the end of the financial year.

12.23 The amount of income to be credited in respect of sundry debts to individual Directorate accounts shall be determined by the Director of Finance with a clear reference to the actual cash amount received by the Council.

13. ORDERING AND PAYING FOR WORK, GOODS AND SERVICES

General

13.1 Every Officer and Member of the Council has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with appropriate codes of conduct. These interests should be registered with the Director of Legal as per the Council's agreed procedures.

13.2 Public money must be spent with demonstrable probity and in accordance with the Council's policies, including ensuring suppliers' compliance with taxation in accordance with resolutions of Council. Where appropriate a valid purchasing order shall be raised Local Authorities have a statutory duty to achieve best value in part through economy and efficiency and the Council's procedures (Contract Procedure Rules, Scheme of Delegation, Financial Procedure Rules and in accordance with Procurement Policy and Practice) must be followed to help Directorates obtain value for money from their procurement arrangements.

13.3 Whilst Contract Procedure Rules have a threshold for written competitive quotations, it is nevertheless an obligation on officers to be able to show that they have received value for money at much lower levels than the formal requirement of these rules.

13.4 Where the Council has corporately negotiated contracts for goods, services or works, Directorates shall normally use these contracts for such supplies. Information on these contracts can be obtained from the Corporate Procurement Section. Where the Council is also the supplier of a service, officers ordering shall always give the in-house provider the opportunity to quote for the supply.

13.5 Senior Officers must ensure that all valid invoices are paid as a minimum within 30 days of receipt. Suppliers should be encouraged to participate in the early discount scheme of the Council and that invoices are submitted in a timely manner to maximise the amount of early payment. In payment of invoices all officers should comply with the detailed guidance issued by the Director of Finance. This includes an analysis where appropriate that a supplier is financially robust to receive all payments via the early payments scheme.

13.6 The Director of Finance will determine the method and frequency of payment from one of the Council's main bank accounts, except for: -

a) petty cash and other imprest accounts
b) delegated bank accounts approved by the Director of Finance

<u>Raising orders</u>

13.7 All orders for goods, services and works shall be made using the Council's agreed procurement system, A1/Agresso. Unless agreed by the Director of

Finance as an agreed exception, orders should be issued in advance of the receipt of the service and invoice.

13.8 Each Authorised Senior Officer's own Scheme of Delegation must identify employees authorised to act on their behalf, or on behalf of the Cabinet, in respect of payments and orders, together with the limits of each person's authority.

13.9 Senior Officers must approve a schedule of Council officers authorised to raise requisitions, undertake approvals up to order and invoice stages and to supply their names, job titles and authorised approval levels to the Director of Finance. The schedule must be reviewed at least once per year.

13.10 By approving a requisition the approving officer indicates that satisfactory checks have been carried out to ensure that:

(a) the authoriser of the order should be satisfied that the goods and services ordered are appropriate and necessary;

(b) the order value indicates that prices, extensions, calculations, discounts, other allowances and all relevant taxes are correct;

(c) payment will be processed via a proper tax invoice;

(d) the proposed expenditure will be properly incurred, is within budget, and has been charged to the appropriate budget;

(e) entries will be made in asset registers, inventories, stores and other records as appropriate;

(f) the order has not been processed previously;

(g) the commitment is a proper liability of the Council.

There should be adequate controls to agree invoice values to contracts or non A1/Agresso orders where a dispensation has been received for not using A1/Agresso ordering as detailed in section 13.7. The supplier's sales invoice reference should be recorded in spreadsheet format by the budget holder's department to allow the tracing of invoices input to A1/Agresso in the absence of an A1/Agresso purchase order reference.

13.11 The correct receipt of goods shall be acknowledged by recording the details on A1/Agresso or the signature of an appropriate officer who checks for quantity and quality to the details set out on the delivery note to validate the receipt of goods or services. This should not be the same officer who has approved the order.

13.12 Signed delivery notes shall be matched and checked to the appropriate electronic order and retained as a record of receipt of the delivery.

13.13 System procedures must be followed for the treatment of part or incorrect deliveries and the system updated appropriately.

13.14 Goods shall be held with appropriate security and entered into stores or an inventory, if appropriate (see section 8). Permanent valuable items shall be marked as the property of Oldham Metropolitan Borough Council. This does not apply to equipment leased by the Council, which shall be marked to indicate the equipment is leased in such a way as not to deface the equipment.

Paying invoices

13.15 Payments shall only be made in respect of goods or services properly received on receipt of an official invoice from the supplier. The invoice must contain, if appropriate, the company registration and VAT numbers and valid Purchase Order number. Failure to quote an order number will not allow the Council system to match with the original purchase order and as a result the invoice will be returned to the sender for the inclusion of this data.

13.16 Invoices will be received and processed by the Accounts Payable Team, who will electronically scan the invoices, which will be matched by the system to the relevant order and goods/services received record and passed for payment if within system tolerances.

13.17 An exception to this matching process relates to non-order invoices input under the dispensation rule detailed in 13.7 above where the budget holder effectively gives retrospective order approval after an invoice has been input.

13.18 Authorised Senior Officers are responsible for ensuring that undisputed invoices are processed for payment within a maximum of 30 days from receipt of the invoice.

Advance Payments

13.19 Where a supplier or contractor requires payment prior to the despatch of goods or the provision of services for a new service, an official order signed by a duly authorised officer and clearly marked that payment is to be made before receipt of the goods or services must be completed. A pro forma invoice or supplier's order form detailing fully the goods/service to be obtained must be approved by an officer authorised to certify invoices and retained as a record of the payment made.

13.20 Where a supplier or contractor of a supply/ works has already been agreed under a tender/ contract process, then a payment can only be agreed following the submission of a mod.gov report setting out the rationale for agreeing the payment.

Transparency Agenda

13.21 As a part of Transparency Agenda the Council shall publish all individual transaction for expenditure in excess of £500 within statutory deadlines.

14. PAYMENT CARDS

14.1 All arrangements regarding payment and procurement cards must be approved by the Director of Finance.

14.2 Senior Officers in conjunction with Director of Finance will determine the credit limit for individual payment and procurement cards.

14.3 Each cardholder will ensure safe custody of the card and not exceed their monthly limit.

14.4 Cards may be used only in accordance with the approved scheme and for legitimate expenses incurred by the cardholder in the course of official Council business.

They must not be used:

(a) to circumvent the procedures for the ordering of and payment for, goods and services under these regulations; or

(b) to purchase items for the private or personal use of cardholders.

14.5 Each cardholder must ensure that all expenditure incurred is supported by adequate records and in respect of payment cards, a VAT receipt is obtained to support all expenditure.

15. SALARIES, WAGES AND PENSIONS

15.1 All payments of salaries, wages, pensions, compensations, gratuities, allowances and other emoluments to current or former employees and Members are to be made by the Councils Payroll Service or an agreed payroll provider (in relation to schools) in accordance with information supplied by the Senior Officer. All payroll transactions must be processed through the Council's payroll system. This will include all Members and Officers expenses which are to be paid in arrears by payroll.

15.2 Senior Officers must ensure that appointments of all employees and agency staff are in accordance with the appropriate Conditions of Service of the Council or any approved scheme of delegation, and are within the approved budgets, grades and rates of pay. Any variations of terms and conditions must be in accordance with arrangements approved by the Assistant Chief Executive.

Records

15.3 Senior Officers must maintain adequate records to notify the Payroll Service of all appointments, resignations, dismissals, and retirements together with changes in pay rates, bonuses due, overtime worked and other matters affecting remuneration, and provide all information to ensure that the correct

adjustments are made in respect of absences, pensions, income tax, national insurance, sickness and maternity pay and any other additions, to or deductions from pay. Senior Officers must also advise the Payroll Service of any employee benefit in kind to enable reporting for taxation purposes.

15.4 Time records and other pay documents must be maintained in a manner approved by the HR Transactional, Payroll and Pensions Operations Manager and be certified by the relevant Senior Officers or other authorised officers. A record of all authorised officers must be maintained together with specimen signatures, a copy of which will be sent to the Payroll Service.

15.5 Access to Payroll Data shall be made available to authorised Council representatives by all audit providers to the Council.

Overpayments

15.6 The Director of Finance is authorised to write-off any net overpayment of salary/wage where death-in-service of an employee occurs, except where the Council holds a statutory obligation to recover such overpayments. All other overpayments of pay must be treated for the purposes of recovery and write off in accordance with Financial Procedure Rule 12.

16. TRAVEL, SUBSISTENCE AND OTHER ALLOWANCES

16.1 Payment of all claims is to be made via payroll or under other arrangements approved by the Director of Finance and must be in accordance with Schemes of Conditions of Service adopted in respect of the employee to which the payment relates.

16.2 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses, must be made by the payroll system. The on-line system provides for certification by the Senior Officers or authorised officer under individual schemes of delegation for Authorised Senior Officers.

16.3 The certification of a claim by or on behalf of a Senior Officer is taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council. Expense claims which relate to a period more than 6 months before the date of submission will not be paid, except in special circumstances agreed by the Director of Finance.

16.4 Where air travel is required for business purposes, all such flights should be authorised in advance by the relevant Authorised Senior Officer.

17. TAXATION

17.1 The Director of Finance is responsible for advising the Council / Authorised Senior Officers on all taxation issues that affect the Council.

17.2 Each Senior Officer must ensure taxation is treated correctly and consult with the Director of Finance in the event of any uncertainty as to any taxation treatment (this includes compliance with IR35 regulations where interim staff are engaged). Should an error in taxation occur due to the failure of a Head of Service to follow an appropriate procedure then there shall be a charge against that Services budget.

17.3 The Director of Finance will maintain the Council's tax records, make all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate, as well as lead and co-ordinate discussion or negotiations with His Majesty's Revenue and Customs about any taxation matter.

18. GIFTS AND HOSPITALITY

18.1 A separate Code of Conduct is available which sets out how officers and members should deal with issues such as receipt of personal gifts and offers of hospitality. All officers and members need to be aware of the requirements of the Code and ensure they are followed. All gifts and offers of hospitality over £25 need to be registered with the Director of Legal.

19. UNOFFICIAL AND VOLUNTARY FUNDS

19.1 These regulations relate to funds administered by officers of the Council, the accounts of which are not included in the Authority's accounts.

19.2 Any proposed unofficial funds require the prior approval of the Senior Officer concerned who must maintain a record of all such funds and ensure that officers are appointed to administer each fund.

19.3 A separate bank account must be maintained for each fund (in the name of the fund) and fund monies must be kept separate from Council monies.

19.4 Senior Officers must ensure that they receive a copy of the accounts of each fund and a certificate in the prescribed form from the auditors or independent examiners of each fund that has to be audited or independently examined. Such accounts are to be prepared annually, and at the completion of the purpose for which the fund was set up.

19.5 The Director of Finance is to have access to any records relating to such funds and be immediately informed of any irregularities which arise in connection with them.

20. FINANCIAL CONTROL OF WHOLLY OWNED COMPANIES, PARTNERSHIPS, JOINT VENTURES, ASSOCIATED ORGANISATIONS AND SIMILAR ARRANGEMENTS

Working in Partnership with Associated Organisations

20.1 The Director of Finance is responsible for oversight of standards of financial administration in wholly owned companies and partnerships that apply throughout the Council, or advising the Cabinet/ Audit Committee or Scrutiny

Board where he/she is aware that arrangements within a partnership are in conflict or are unclear compared with the practices adopted by the Council.

20.2 The Director of Finance must ensure that the accounting arrangements to be adopted relating to wholly owned companies, partnerships and joint ventures are satisfactory, and must:

(a) consider the overall corporate governance arrangements and legal issues when arranging contracts with the wholly owned company/partner/joint venture or associated organisation;

(b) ensure that the risks have been fully appraised before agreements are entered into with the wholly owned company/partner/joint venture or associated organisation;

(c) approve the appointment of the external auditor;

(d) arrange for the accounts to be prepared by an appropriate professional;

(e) agree the financial ledger to be used by the organisation.

(f) Approve the Scrutiny arrangements for grant programmes in line with Central Government guidance including compliance with government procurement requirements.

20.3 Senior Officers must ensure that in all grant agreements, contribution to partnerships and where appropriate in agreed contracts for the supply of works, goods and services, the Director of Finance has access to the accounts, records and all other documentation, and is entitled to seek explanations from Officers of the funded organisation regarding the deployment of the Council's funding payment.

Working for Other Organisations

20.4 Senior Officers are responsible for ensuring that approval is obtained from the Director of Finance and Director of Legal before any negotiations commence in relation to the provision of works or services to other organisations expected to exceed £10,000.

20.5 The Cabinet is responsible for approving the contractual arrangements for any work for other organisations expected to exceed £100,000. The Director of Finance may agree contractual arrangements below this level.

20.6 Senior Officers must ensure that any proposed arrangement to work for other organisations does not impact adversely upon the Services provided to or by the Council. All agreements, contracts or arrangements must be properly documented, and appropriate information must be provided to the Director of Finance to enable a note to be entered into the Council Statement of Accounts concerning material items.

Grants and Loans to Other Organisations

20.7 Where a Senior Officers proposes to offer a loan to any organisation in excess of £10,000, he/she may do so only following:

(a) a full financial appraisal of the organisation to which the loan is to be granted, by the Director of Finance;

(b) a full financial appraisal of the project to which the loan relates, by the Director of Finance;

(c) the execution of a legal agreement approved by the Director of Legal ;

(d) if it is in accordance with the agreed Council procedures on loans to third party organisations;

(e) there is clear evidence that the offering of the loan demonstrates the delivery of Corporate Objectives.

20.8 Loans including those where the cumulative value exceed £400,000 as per the loans policy must be approved by Cabinet

20.9 Where a Senior Officers proposes to offer any grant in excess of £10,000, he/she may do so only:

(a) where this accords wholly within the approved grants policy of the Council;

(b) following a full financial appraisal by the Director of Finance of the accounts of the organisation and an analysis of the necessity or otherwise of the funding proposal to be made and on the execution of a legal agreement approved by the Director of Legal ; or

(c) in accordance with agreed Council procedure on grant support to third party organisations.

(d) there is clear evidence that the offering of the grant demonstrates the delivery of Corporate Objectives.

20.10 Grants in excess of £250,000 must be approved by Cabinet.

21. WORKFORCE

21.1 The Head of Paid Service is responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration for a job.

21.2 Authorised Senior Officers are responsible for controlling total numbers in the workforce and its cost by:

- advising the Director of Finance on the budget necessary in any given year to cover the workforce levels previously approved by Authorised Senior Officers,

- adjusting the workforce to levels that can be funded within approved budget provision, varying the numbers provided (though not the remuneration, or levels of remuneration for the specific categories of the workforce) as necessary, within that constraint, in order to fulfil operational needs;

- using the proper use of appointment procedures;

- ensuring an establishment list which includes job titles, names and contact details is prepared and maintained for their Directorate.

22. MONEY LAUNDERING

22.1 The legislation concerning money laundering impacts on local authorities. Potentially any member of staff could be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it. The Council has therefore established an internal Anti-Money Laundering Policy and supporting Guidance Note designed to prevent the risk of the Council being involved in money laundering and to enable staff to report suspicions of money laundering activity to the Chief Internal Auditor (as the Council's nominated Money Laundering Reporting Officer).

22.2 All staff should have regard to the Council's Anti-Money Laundering Policy and supporting Guidance. A member of staff should, in line with the Policy and Guidance, report any transaction which involves the receipt of £10,000 or more of cash to the Council's Money Laundering Reporting Officer; notwithstanding such financial limit, and member of staff who has reasonable grounds to believe that money laundering is taking place (or is being attempted) in respect of a smaller amount of cash should report the matter to the Council's Money Laundering Reporting Officer.

Contract Procedure Rules

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Note: All references to Council posts in these Contract Procedure Rules shall be read as a reference to the equivalent post at the relevant point in time

1. APPLICATION/COMPLIANCE WITH CONTRACT PROCEDURE RULES

1.1 These Contract Procedure Rules are made under Section 135 of the Local Government Act 1972 and apply to all Contracts and Call-Off Contracts for the procurement of Supplies, Works, Services or Concessions made in the name of the Council. Where in these Rules "the Council" is referred to, the term shall include the reference to School Governing Bodies by virtue of the Scheme for Financing Schools, to the Council in its roles as charitable trustee and to the Miocare Group and any other Contracting Authority owned in whole or in part by the Council.

1.2 Compliance with the Rules and observance of law and the acts and regulations from which they emanate (in particular the principles relating to non-discrimination, equal treatment, mutual recognition, and transparency) is mandatory for all Officers, Members, agents, and consultants acting on the Councils behalf. The Rules ensure that procurement activity is undertaken in a legally compliant, transparent, fair, and competitive manner.

1.2 For the avoidance of doubt, in instances of pooled funds arrangements made under section 75 of the National Health Service Act 2006 and the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 the lead commissioning organisation's rules will take precedence.

1.3 Every Contract entered into by the Council shall be entered into pursuant to or in connection with the Council's functions and shall comply with:

1.3.1 all relevant statutory legislation and provisions and in particular the Procurement Regulations and any relevant case law;

1.3.2 the Council's Constitution including these Contract Procedure Rules, the Council's Financial Procedure Rules and the Officer and the Executive Member Scheme of Delegation; and

1.3.3 the Council's strategic objectives and policies including, amongst others, the Corporate Plan.

1.4 These Contract Procedure Rules apply to all Contracts awarded by the Council for Supplies, Works, Services or in respect of Concessions, regardless of the source of funding for the Contract. They apply to procurement by any form, including by way of a Council purchase order by any other form of Contract awarded by any person, firm or body on the Council's behalf.

1.5 No Contract shall be entered into unless those officers specified in the Scheme of Delegation at Part 3 of the Council's Constitution with budget responsibilities are satisfied that there is adequate budget provision and all necessary consents to the expenditure have been obtained.

1.6 Where a Contract involves the making of a Key Decision as defined in Part 2, Article 14.3.2 -14.3.3 of the Constitution, those relevant officers specified in the Scheme of Delegation at Part 3 of the Council's Constitution shall ensure that the Director of Legal and the Director of Finance are consulted throughout the procurement or commissioning process.

1.7 It shall be a condition of any Contract between the Council and any persons (not being Officers of the Council) who are required to supervise a Contract on the Council's behalf, that

in relation to such Contract, those persons shall comply with the requirements of these Contract Procedure Rules as if they were Officers of the Council.

1.8 These Contract Procedure Rules shall not apply to:

1.8.1 Contracts of employment.

1.8.2 Contracts for direct payments or for personal social or health care or educational need where neither a quotation or tender procedure are, in the opinion of the Executive Directors, or appropriate Director (following consultation with Director of Legal) viable methods of procurement in the circumstances.

1.8.3 Contracts for the purchase or sale of land or securities, or Contracts for the taking or granting of any interest in land, unless such Contracts involve details of the Council's specific requirements which would amount to a Works contract and must be procured in accordance with these Rules.

1.8.4 Contracts for supplies to be purchased at auction and where the Director of Finance has agreed in writing that the Council's interests will best be served by purchase through auction and has similarly agreed an upper limit for bids.

1.8.5 Contracts for the use of counsel or other legal representation where the Director of Legal considers that a Procurement exercise would not protect or support the Council's interests. All contracts for the use of counsel or other legal representation must be commissioned and/or approved by the Director of Legal or nominated representative.

1.8.6 Contracts for works of art or theatre, which are genuinely exclusive.

1.8.7 Contracts commissioned by another Contracting Authority as lead authority in accordance with their own contract procedures and Procurement Legislation provided the Commercial Procurement Unit (in consultation with Legal Services) is satisfied that the Contracts have been compliantly procured.

1.8.8 A Call-Off Contract made by the Council or a lead Contracting Authority on behalf of the Council under a legally compliant Framework Agreement , where the Council is an identifiable or named Contracting Authority provided the Commercial Procurement Unit (in consultation with Legal Services) is satisfied that the Call-Off Contract has been compliantly procured (see Rule 8).

1.8.9 The sale or provision of Supplies, Works or Services delivered by the Council as traded services.

1.9 Save for Rule 14.1 and Rule 14.8 and Rule 14.12, these Contract Procedure Rules shall not apply to receiving Grant funding by the Council, and Grant funding to be distributed as a Grant by the Council. This exclusion does not apply to the procurement of Supplies, Works or Services using Grant funding received by the Council. In such cases Grant Funder rules stipulated for procurement should always apply and be strictly adhered to, for the avoidance of any clawback.

1.10 The Director of Finance may deviate from these Contract Procedure Rules where there is a valid or exceptional reason for doing so and providing the decision is still compliant with the Public Contracts Regulations 2015. All such cases will be documented and legal advice will be sought .

1.11 Any failure to comply with any of the provisions of these Contract Procedure Rules shall be reported to the Head of Commercial Procurement Unit who will refer the matter to the Director of Legal or the Director of Finance, as appropriate and the officer. A breach of these Rules may result in disciplinary action.

1.12 The relevant officer referenced in Rule 1.11 shall, where appropriate, take immediate action in the event of a failure to inform the appropriate Director who will consider and determine the appropriate action.

1.13 Any dispute regarding the application of these Contract Procedure Rules shall be referred to the Director of Finance and Director of Legal for advice.

1.14 The final arbiter for resolution of disputes regarding the application or interpretation of these Contract Procedure Rules shall be the Director of Legal whose decision shall be binding and final.

1.15 Persistent breach of the Contract Procedure Rules will also be reported to the Audit Committee.

1.16 These Contract Procedure Rules make provision for the overriding Procurement Regulations. It is anticipated that the Procurement Regulations will be amalgamated and replaced with new legislation which governs the way in which Contracts that have a Contract Value in excess of the prescribed thresholds are procured. The Provider Selection Regime (PSR), a new set of rules for arranging healthcare services in England (but not the procurement of goods or non-healthcare services) apply to the Council.. In the event that new legislation or rules are imposed, the definition of the Procurement Regulations shall be deemed to be modified to refer to the replacement legislation and rules and any procedures within these Contract Procedure Rules which comply with the Procurement Regulations as currently in force shall be deemed to be modified to refer to the replacement rules and procedures.

2. COMMISSIONING AND PROCUREMENT PLANNING

2.1 Prior to the start of each financial year, the Council shall create a strategic procurement forward plan in consultation with the Head of the Commercial Procurement Unit and members of the Legal Services team setting out its current Contracts and any Works, Supplies or Services to be procured for the forthcoming financial year. The procurement pipeline should be refreshed at intervals as the need arises. The coordination and updating of this plan will be the responsibility of the Commercial Procurement Unit. The strategic procurement forward plan will be published on the Oldham Council website.

2.2 The Council shall, where appropriate, make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness in accordance with Section 3 Local Government Act 1999 ("Best Value"). This includes where appropriate, consultation with representative groups of payers of Council Tax and Business Rates stakeholder(s) and any other relevant interested groups prior to commissioning services.

2.3 The Council shall consider its obligations under the Public Services (Social Value) Act 2012 and have regard to economic, social and environmental well-being in connection with public services contracts and for connected purposes in its planning and commissioning processes.

2.4 The Council shall, where appropriate, consider its obligations with regard to data protection under the UK General Data Protection Regulation and the Data Protection Act 2018 as amended from time to time and in particular its responsibilities and that of the Contractor in relation to the processing of personal data through the outsourcing of its services, including specifying the conditions for processing and retaining personal data.

2.5 The Council shall, where appropriate, ensure that any collaborative arrangements/agreements with other public bodies to procure Supplies, Works or Services comply with the Procurement Regulations and ensure value for money and that the Council's interests are fully protected.

2.6 As permitted by the Procurement Regulations, soft market testing may be undertaken provided it does not distort competition and is transparent and non-discriminatory.

2.7 Where an organisation has been involved at a pre-procurement stage (whether in soft market testing or otherwise, e.g., incumbents), the Council must ensure fairness, transparency and equal treatment when the tender process starts such as making certain information available to all Tenderers that has previously been made available at a pre-procurement stage.

2.8 The Contract Owner is responsible for the full commissioning cycle including contract management and must ensure the Council enters into a legally binding Contract with the Contractor prior to the provision of the Supplies, Works or Services. The Contract Owner must ensure that the Contract is correctly executed and completed and then lodged with the Commercial Procurement Unit where the value of the Contract is £10,000 and over.

3. CALCULATION OF CONTRACT VALUE

3.1 The estimated value of a Contract shall be the total consideration payable, including Value Added Tax (where applicable), which the Council expects to be payable under the Contract and shall be calculated in accordance with Rule 3.2 below.

3.2 The total Contract Value shall be calculated as follows:

3.2.1 Where the Contract is for a fixed period, by taking the total price to be paid during the lifetime of the Contract or the price which might be paid during the whole of the period including any permitted extension.

3.2.2 Where the term of a Contract is indefinite or uncertain, by taking the monthly price payable under the Contract multiplied by 48.

3.2.3 In relation to a compliant Framework Agreement with no guaranteed commitment, the Contract Value will be the estimated value of the required Supplies, Works or Services over the full duration of the Framework Agreement.

3.3 Under the Procurement Regulations, Contracting Authorities may divide tender opportunities into smaller lots to encourage small and medium sized business enterprises to submit bids and must provide reasons for not doing so. The cumulative value of the individual lots will form the total Contract Value. If the Council chooses not to divide tender opportunities into smaller lots, it will record a reason for not doing so, and this record will be held by the Commercial Procurement Unit.

3.4 A Contract Value shall not be artificially under or overestimated or divided into two or more separate Contracts where the purpose is to avoid the application of these Contract Procedure Rules.

4. PROCUREMENT PROCEDURES

4.1 Where an existing Contract, Framework or in-house service is available to meet the Council's specific procurement requirements and offers value for money it should be used unless there are particular circumstances which justify an alternative route to market.

4.2 An E-auction process may form part of the overall tender process and shall be used in conjunction with the relevant procedures. The Contract Notice or advertisement and the Invitation to Tender / Quote documentation shall state that an E-auction will form part of the process.

4.3 If Rule 4.1 does not apply, the Council must comply with the procurement table below, which sets out the required procedure for different Contract Values, the minimum number of offers that must be invited and how invitations to submit offers must be publicised.

The following thresholds are calculated as including VAT

Contract Value	Procurement Activity	Instructions	Minimum Requirement for Advertising the Opportunity
Less than £10,000 for Supplies, Works and Services	1 Written Quotation.	Service Area to obtain at least 1 written Quotation in accordance with Rule 5.1 below. Local Supply Chains and SMEs to be considered where practical.	N/A
Between £10,000 and £29,999 for Supplies, Works and Services	Written quotations must be obtained from a minimum of 3 organisations (RFQ).	Service Area to obtain a minimum of 3 written quotations in accordance with Rule 5.2 below. Local Supply Chains and SMEs must be prioritised where possible – at least 1 local Contractor (where practical) to be included.	N/A
Between £30,000 and £99,999 for Supplies, Works and Services	RFQ / Closed or Open Tender	Service Area to contact the Commercial Procurement Unit who will conduct an appropriate procurement procedure in accordance with Rule 5.3 below. Local Supply Chains and SMEs to be considered and tenders to be conducted in accordance with Rule 6.	N/A (RFQ) N/A (Closed Tender) The Chest and Contracts Finder (Open Tender)
Between £100,000 and Procurement	Formal Open Tender Process	Service Area to contact the Commercial Procurement Unit who will conduct an appropriate procurement procedure in	The Chest and Contracts Finder

Regulations threshold for Supplies, Works and Services or Concessions		accordance with these Contract Procedure Rules. Tenders to be conducted in accordance with Rule 6.	
Procurement Regulations threshold and above for Supplies, Works and/or Services or Concessions	Full Public Contracts Regulations 2015 Regulations compliant Procedure	Service Area to contact the Commercial Procurement Unit who will conduct an appropriate procurement procedure, in compliance with the Public Contracts Regulations 2015 and in accordance with Rule 7.	Open advert mandated in Find a Tender Service and Contracts Finder
Framework Call-Off Contracts of any value	Procedure governed by the overarching Framework Agreement	Service Area to contact the Commercial Procurement Unit who will advise on the available procedures and, where appropriate, conduct a mini competition in compliance with the relevant Framework Agreement in accordance with Rule 8.	The Chest or via the Framework Agreement holder's system

4.4 The rules relating to the required process and timescales shall be observed for all Contracts as shall the principles of the Procurement Regulations. The procurement process needs to be conducted in accordance with the principles of equal treatment, non-discrimination, transparency, mutual recognition, proportionality, competition, the protection of legitimate expectations, the requirement to act without manifest error and good administration – which underpin the Procurement Regulations.

5. QUOTATION PROCESS

5.1 A minimum of one full written Quotation(s) below £10,000 shall be obtained from Contractor(s) pursuant to the procedure set out in the table in Rule 4.3 before a formal Contract can be issued. Quotations may be price based only. A formal Contract shall be issued after receipt of the Quotation(s) and shall specify the Supplies, Works or Services to be provided or the Concession to be granted, set out the price and terms of payment and incorporate the Council's relevant terms and conditions of contract unless approval from the Commercial Procurement Unit (in consultation with Legal Services) is given to use alternative terms and conditions.

5.2 A minimum of three written Quotation(s) between £10,000 and £29,999 shall be obtained from Contractor(s) pursuant to the procedure set out in the table in Rule 4.3 before a formal Contract can be issued. Quotations may be price based only, with quality evaluation recommended where appropriate. A formal Contract shall be issued after receipt of the Quotation(s) and shall specify the Supplies, Works or Services to be provided or the Concession to be granted, set out the price and terms of payment and incorporate the Council's relevant terms and conditions of contract unless approval from the Commercial Procurement Unit (in consultation with Legal Services) is given to use alternative terms and conditions.

5.3 The Commercial Procurement Unit must assess the requirement between £30,000 and £99,999, and determine the most appropriate process below which must then be undertaken. The Head of Procurements decision on the appropriate process is final:

1. A minimum 3 full written Quotations (RFQ)

2. Closed Tender (minimum of 3 nominated bidders identified to take part in a closed tender opportunity); or

3. Open Tender (advertised on the Council's eProcurement system (The Chest) and Contracts Finder)

The above shall be carried out pursuant to the procedure set out in the table in Rule 4.3 before a formal Contract can be issued. A formal Contract shall only be issued after the Procurement and Commercial Unit are in receipt of the Quotations/Tenders which shall specify the Supplies, Works or Services to be provided or the Concession to be granted, set out the price and terms of payment and incorporate the Council's relevant terms and conditions of contract unless approval from the Commercial Procurement Unit (in consultation with Legal Services) is given to use alternative terms and conditions

5.4 Local Contractor(s) should be prioritised in each Request for Quotation and Closed Tender processes, where possible.

5.5 The standard Council templates for Quotations shall be utilised for all Procurement activity and these are held by the Commercial Procurement Unit.

5.6 All Quotation(s) sought shall be recorded in writing for audit purposes via the Council's E-procurement system (The Chest).

6. TENDER PROCESS – Below Public Contracts Regulations Thresholds

6.1 If the Council is satisfied it is lawful not to advertise a tender opportunity and chooses not to advertise the opportunity at all (*e.g. where quotations are sought, closed tender conducted, single tender action is being considered, a framework agreement or DPS is used, etc), the requirement to publish an opportunity notice on Contracts Finder does not apply to that procurement. All Open Tender opportunities must be advertised via the Council's e-procurement system (The Chest) and Contracts Finder (See table Rule 4.3.)

The Invitation to Tender should include all of the information listed in Rule 9.2 below.

6.2. Any Procurement opportunity advertised shall:

6.2.1 specify the terms and conditions which will apply;

6.2.2 invite persons or bodies to express an interest in tendering;

6.2.3 specify a date or time limit, being not less than 14 days within which such Tenders are to be submitted.

7. TENDER PROCESS – Above the Procurement Regulations Thresholds

7.1 Where an estimated Contract Value exceeds the current Procurement Regulations' Thresholds, the Contract shall be tendered in accordance with the Procurement Regulations. Under the Public Contract Regulations 2015, the Contract may largely be Tendered under Open, Restricted, Competitive Dialogue, Competitive Procedure with Negotiation or Innovation Partnerships Procedure. Under the provisions relating to Social and Other Specific Services within the Public Contract Regulations 2015 and under the Concession Contracts Regulations 2016 the Council shall have more freedom to organise the procedure, subject to compliance with the relevant Regulations

7.2 A Contract Notice in the prescribed form must be published in Find a Tender and Contracts Finder in order to invite Tenders..

7.3 All Find a Tender and Contracts Finder notices shall be published by the Commercial Procurement Unit.

7.4 **Competitive Procedures**

7.4.1 A Competitive Dialogue procedure or Competitive Procedure with Negotiation may be beneficial in circumstances where greater flexibility is needed, e.g., for highly complex and risky projects where Tenderers will have a major role in defining the solution or where an Open Procedure may not deliver the expected outcomes.

7.4.2 A Competitive Dialogue procedure or a Competitive Procedure with Negotiation allows the Council to negotiate proposed solutions with Tenderers to achieve a desired outcome.

7.4.3 The Council must publish the minimum requirements, the award criteria and their weightings, which should not be changed during the negotiation process. During the dialogue, the Council must ensure the equal treatment of all participants and must not provide information in a discriminatory manner which may give any participant an advantage over others.

7.4.4 Advice from the Commercial Procurement Unit, in consultation with Legal Services, must be sought prior to embarking upon a Competitive Dialogue Process or a Competitive Procedure with Negotiation.

7.5 **Concession Contract**

A Concession governed by The Concession Contracts Regulations 2016 must be advertised in accordance with those Regulations and the value of the concession must be calculated in accordance with Regulation 8. There are certain procedural guarantees which must be met; award criteria must be published in descending order of importance and the tender evaluation made in accordance with them; minimum time limits for the receipt of tenders and the mandatory and discretionary exclusion criteria must be applied. A Find a Tender / Contracts Finder notice must be published for over threshold tenders.

8. COMPLIANT FRAMEWORK AGREEMENTS

8.1 CALL-OFF CONTRACTS

8.1.1 Where an appropriate compliant Framework Agreement is recommended by the Commercial Procurement Unit, that has been established by a consortium, collaboration, the Council or other public body, the Council may consider using this compliant Framework Agreement to place an order (Call-Off) if:

(a) the Framework Agreement has been established by an entity, and via a process, which permits the Council to access those arrangements lawfully;

(b) the Council is a named Contracting Authority in the original advertisement;

(c) a detailed evaluation of the opportunities and risks associated with the Framework Agreement as detailed in 8.1.2 has been undertaken and agreed by the Assistant Director of Legal and the Director of Finance.

8.1.2 Before undertaking a Call-Off under any compliant Framework Agreement, thorough due diligence should be undertaken and advice sought from the Commercial Procurement Unit, and Legal Services to confirm the following (as a minimum):

- the Council is a named Contracting Authority in the original advertisement (identification has to be either by name or by other means that makes the Council clearly identifiable i.e. the Council may be identified by reference to a specific class of contracting authorities)
- the compliant Framework Agreement is in place and binding,
- the compliant Framework Agreement is still valid,
- the compliant Framework Agreement is in place and covers the remit of the goods, works or services required
- the estimated Contract Value in respect of the proposed Call-Offs that would be made under the compliant Framework Agreement,
- that the maximum aggregate spend under the Framework Agreement has not been reached,
- that the Call-Off terms and conditions are fit for purpose,
- a copy of any User Guide / any other documentation is available.

8.1.3 Call-Off Contracts must be awarded based on the evaluation criteria identified in the compliant Framework Agreement.

8.1.4 Where the Call-Off is undertaken via a direct award process (which is prescribed in the compliant Framework Agreement), in advance of executing a Call-Off Contract the Contractor must be requested, in writing, to supply confirmation, that is verified by the Council, that it can meet the requirements of the Council in accordance with the relevant terms and conditions and the pricing established in the compliant Framework Agreement.

8.2 ESTABLISHING A COMPLIANT FRAMEWORK AGREEMENT

8.2.1 Where the Council is establishing a compliant Framework Agreement which may be accessed by other named Contracting Authorities, including any subsidiary companies of the Council, the estimated Contract Value that may be contracted for under the compliant Framework Agreement must take account of all potential work that may be put through the agreement (see Rule 4) and follow the procedures set out in these Contract Procedure Rules.

8.2.2 If the Council is establishing a compliant Framework Agreement in accordance with Contract Procedure Rule 8.2.1, reference must be made within the procurement documents explaining if the compliant Framework Agreement is intended for a wider use and advice should be sought from Legal Services to ensure the terms upon which other Contracting Authorities access those arrangements are clear and offer appropriate protection to the Council.

8.2.3 In establishing a compliant Framework Agreement, the total duration (including any extensions) cannot exceed four years except in exceptional circumstances where this can be duly justified (as required under Public Contract Regulations.) Any proposal to establish a compliant Framework Agreement with a duration exceeding four years should be referred to the Commercial Procurement Unit and Legal Services for advice.

8.2.4 Where, taking into account the above, the estimated value of the compliant Framework Agreement is above the relevant procurement threshold, the authorised officer must ensure that any other public bodies (Contracting Authorities) intended to be able to access the Framework Agreement are included in Find a Tender or contracts Finder or any official notice either individually or by an identifiable class.

8.2.5 In establishing a compliant Framework Agreement, the Council must ensure that the terms of the compliant Framework Agreement make the process clear by which Call-Off Contracts are to be entered into.

9. TENDER DOCUMENTATION

9.1 Save where a mini competition is to be carried out under another Contracting Authority's Framework Agreement, the standard Council templates for Tendering shall be utilised for all Procurement activity for Tenders of £10,000 or above.

9.2 As a minimum, Tender documents shall include details of the Council's requirements for the particular Contract including, but not limited to:

9.2.1 a description of the Supplies, Works or Services being procured, or Concessions granted now or in the future;

9.2.2 the Procurement timetable including the Tender return date and time, which shall allow a reasonable period (a minimum of 14 days) for applicants to prepare their Tenders to submit electronically;

9.2.3 the timetables prescribed by the Procurement Regulations;

9.2.4 a detailed specification and instructions on whether any variant bids are permissible;

9.2.5 the Council's terms and conditions of Contract (where a compliant Framework Agreement is to be used, the template Call-Off Contract shall be included)

9.2.6 the evaluation criteria to be used, including Social Value and including any weightings as considered appropriate;

9.2.7 payment schedule and terms and instructions for completion;

9.2.8 whether TUPE may apply (if applicable);

9.2.9 the pension arrangements for existing/former Council employees (if applicable);

9.2.10 form and content of method statements to be provided (if applicable);

9.2.11 rules for submitting of Tenders; and

9.2.12 any further information, which will inform or assist Tenderers in preparing Tenders.

10. CONTRACT TERMS AND CONDITIONS

10.1 All written Contracts and Purchase Orders shall include appropriate terms and conditions for Supplies, Works, Services or Concessions (as relevant) or, where a compliant Framework Agreement is used, the applicable Call-Off terms and conditions. The Invitation to Tender or Quotation documentation shall state within the Contract which terms and conditions or Call-Off terms and conditions will apply, and these shall be available via Legal Services. Purchase Orders shall refer to the applicable terms and conditions.

10.2 All written Contracts should aim to include the Council's default requirements for insurance cover below. Any departure from these default thresholds should be discussed with the Head of Procurement and must be approved by the Director of Finance.

- Public Liability Insurance - £10m
- Employer's Liability Insurance - £5m and
- Professional Indemnity Insurance - £2m (if applicable)

except where a compliant Framework Agreement is used, in which case the levels of cover specified in the compliant Framework Agreement shall apply.

10.3 Any bespoke contractual terms and conditions required shall be confirmed by Legal Services prior to them being issued as part of the Tender process.

10.4 All Contracts shall be documented before the Supplies, Works or Services are provided or Concession arrangements begin and shall include the following, as a minimum:

10.4.1 every Contract shall, as a minimum, unless there is good and sufficient reason to the contrary (or except where a compliant Framework Agreement is used, in which case the compliant Framework Agreement shall apply), require that all Supplies, Works or Services and all workmanship shall, if applicable, be in accordance with the relevant standard or equivalent International standard without prejudice to any higher standard required by the Contract.

10.4.2 a clause empowering the Council to cancel or terminate the Contract if the Contractor offers an inducement or reward in relation to the procurement of any Contract by the Council, to exclude the Contractor from the tender, under mandatory grounds or discretionary grounds for a serious infringement of the Procurement Regulations, and to recover from the Contractor the amount of any loss resulting from such cancellation or termination.

11. RECEIPT AND OPENING OF TENDERS

11.1 Electronic Tenders

11.1.1 Requests for Quotations and Invitations to Tender must be transmitted by electronic means in accordance with the advice of the Head of Commercial Procurement Unit. Quotations and Tenders shall be submitted by electronic means e.g., email or the E procurement system (The Chest).

11.1.2 Evidence that the transmission was successfully completed is obtained and recorded.

11.1.3 Electronic Tenders are kept in a separate secure folder in The Chest or equivalent system and cannot be opened until the deadline has passed for receipt of Tenders.

11.1.4 A member of the Commercial Procurement Unit, who is not responsible for the procurement exercise, will open all tenders/bids (or framework mini competition bids conducted via The Chest) with a value in excess of £50,000.

12. PRE AND POST TENDER CLARIFICATIONS

12.1 Pre-tender clarifications can be provided to potential or actual Tenderers. All responses should be published on The Chest and communicated to all concerned.

12.2 Post tender clarifications may be undertaken with Tenderers provided the Council ensures equal treatment of all participants and specifies and applies a process for post tender clarifications in the Invitation to Tender and ensures that no Tenderer is given an advantage over any other Tenderer. Any clarifications on the commercial element of a bid may only change the original price offer where the Head of Procurement reviews the clarification and deems that this is a genuine error i.e. an obvious incorrect calculation, Council providing an unclear pricing schedule. In the case of tenders appearing to be abnormally low bids the Council shall require tenderers to explain the tender price/costs proposed. The Council shall reject the tender where the evidence supplied does not satisfactorily account for the low level of price or costs proposed or where it has established that the tender is abnormally low.

12.3 All pre and post tender clarifications must be conducted via The Chest. All communication must be documented and retained on The Chest.

12.4 At all times during the clarification process, the Council shall consider and implement the principles of non-discrimination, equal treatment and transparency.

12.5 Unless otherwise permitted by the Procurement Regulations, in no circumstances are post award negotiations permitted.

13. TENDER EVALUATION

13.1 All Tenders subject to the Public Contracts Regulations 2015 or the Concession Contracts Regulations 2016 shall be evaluated in accordance with the relevant Procurement Regulations and the evaluation criteria set out in the Invitation to Tender. All other Tenders

shall be evaluated in accordance with the evaluation criteria set out in the Invitation to Tender.

13.2 The procurement lead from within the Commercial Procurement Unit shall ensure that a representative from Finance is involved in the evaluation of tenders where necessary, and that, where deemed appropriate by the Head of the Commercial Procurement Unit, Legal Services is consulted regarding the evaluation process for procurements in excess of £1 million.

13.3 The procurement lead of the evaluation team must ensure that no member of the evaluation team has a conflict of interest and completes the appropriate documentation.

13.4 The procurement lead must ensure that each bid is compliant and that the Tenderer is not excluded from bidding under any of the mandatory or discretionary grounds listed in the Procurement Regulations.

13.5 The evaluation criteria shall be predetermined and approved by the procurement lead and listed in the Invitation to Tender documentation, in order of importance. In addition, the evaluation criteria shall be strictly observed (and remain unchanged) at all times throughout the award procedure.

13.6 All Tenders shall be awarded on the basis of being the "Most Economically Advantageous Tender" unless otherwise agreed with the Commercial Procurement Unit, in consultation with Legal Services.

13.7 All Tenders must be evaluated in accordance with the following principles:

- Transparency – there should be no departure from the award criteria
- Equal treatment - there should be an identical approach to the evaluation of each tender
- Manifest error – all scores and calculations should be checked to ensure that there is no manifest error.
- Record keeping – all original records should be kept together with handwritten comments to complete the audit trail.

13.8 Tenderers shall be given written feedback regarding their bid in accordance with the Procurement Regulations.

14. AWARDING CONTRACTS AND CALL-OFF CONTRACTS

14.1 All Contracts subject to these Contract Procedure Rules shall be awarded in accordance with the published evaluation criteria and in accordance with the Officer and Executive Member Scheme of Delegation in the table below and the decision notice recorded and published on Modern.gov:

Contract Value	Awarded By	Decision Recorded on

Less than £10,000	Authorised Officer (as per Departmental Scheme of Delegation)	Related spend is recorded (Purchase Order) via Finance Management System (Agresso)
Between £10,000 and £99,999	Authorised Officer (as per Departmental Scheme of Delegation)	Related spend is recorded (Purchase Order) via Finance Management System (Agresso), The Chest, Mod.Gov if required and Find a Tender/Contracts Finder for Contracts and Call-Off Contracts with a value over £25,000.00.
Between £100,000 and £250,000	Executive Member in consultation with the relevant Director.	The Chest, Modern Gov System if required and Find a Tender/Contracts Finder
£250,000 or over	Cabinet or Sub-Committee (for clarification or delegated by Cabinet)	The Chest, Modern Governance System, Find a Tender/Contracts Finder and the Key Decision document requirements

14.2 No Contract or Call-Off Contract may be awarded unless budget release has been obtained in accordance with the Financial Procedure Rules and approved by the relevant Director.

14.3 Where the Tender is not within the relevant approved budget, but additional budgetary provision is available, the Contract may be awarded, with the approval of the Director of Finance having ensured compliance with the Financial Procedure Rules.

14.4 Once the decision to award a Contract is made, each Tenderer must be notified in writing of the outcome. All Tenderers must be notified simultaneously and as soon as possible of the intention to award the Contract to the successful Tenderer(s) and this should be done via The Chest. The letters must include a description of the characteristics and relative advantages of the successful Tender.

14.5 A Contract award letter will be sent to the successful Tenderer(s) containing all relevant information, including all information prescribed by the Procurement Regulations, where relevant.

14.6 A Contract which has a Contract Value above the Procurement Regulations thresholds can only be awarded after a notice of the proposed award has been given to all unsuccessful Tenderers and the 10 day standstill period has elapsed from the day after the date upon which the notice was given. If the 10 days expire on a non-working day, then the notice period will be deemed to have lapsed on the next working day.

14.7 A Contract award notice must be published in Find a Tender and on the Council‘s website no later than 30 days after the date of award of the Contract (48 days in the case of a Concession Contract) where the Contract Value exceeds the Procurement Regulations threshold. A Contract award notice must also be published on Contracts Finder.

14.8 Save for Call-Off Contracts for personal social or health care or educational need where the overarching Framework Agreement has been sealed, Contracts for Supplies, Services or Works and any other contracts, including but not limited to Grant Agreements, Deeds of Variation, Deeds of Novation and Deeds of Assignment with a Contract Value of £100,000 or more shall be executed by deed and attested by no less than one authorised sealing officer within Legal Services.

14.9 Contracts for Supplies, Services or Works and any other contracts, including but not limited to Grant Agreements, agreements to vary, novate or assign together with Call-Off Contracts for personal social or health care or educational need and with a Contract Value of less than £100,000 shall be executed by no less than one officer of the Council with delegated authority to sign a Contract or contractual document under the Council's Officer and Executive Member Scheme of Delegation.

14.10 Reasonable endeavours shall be used to ensure that performance of a Contract does not commence before the Contract is executed.

14.11 All Contracts over £5,000 shall be published on and embedded in the Council's Contracts Register maintained by the Commercial Procurement Unit.

14.12 Where approved by the officer with delegated approval to sign or an authorised sealing officer within Legal Services or the Director of Finance, Contracts and Call-Off Contracts for Supplies, Services or Works and any other contracts, including but not limited to Grant Agreements, agreements to vary, novate or assign with a Contract Value of less than £100,000 may be executed using the electronic signature of officers of the Council authorised under the Council's Officer and Executive Member Scheme of Delegation or by such authorised officer using an e-signature via appropriate and secure digital signature software.

14.13 Contracts for Supplies, Services or Works and any other contracts, including but not limited to Grant Agreements, agreements to vary, novate or assign may be executed by a contractor using an electronic signature or by using an e-signature via appropriate and secure digital signature software.

15. FINANCE MANAGEMENT SYSTEM

15.1 The Council's Financial Management System (Agresso), or equivalent, shall be used to process all orders with Contractors. This includes all orders processed after Quotations are received or a Tender process has been undertaken.

15.2 To set up a new Contractor, the guidance that is available to all officers (on the intranet) should be followed.

16. LIQUIDATED DAMAGES AND RETENTIONS

16.1 The Director of Finance and the Director of Legal shall advise as to the appropriate degree of security (if any) required to protect the Council from a Contractor default prior to the invitation to tender. Liquidated damages clauses should always be used in a Contract or Call-Off Contract where appropriate.

16.2 A retention sum (appropriate to the circumstances of the Contract) should be written into the terms and conditions of any Contract for Works with a Contract Value of over £50,000, unless the Director of Legal Services agrees to waive the specific requirement.

17. MODIFICATIONS

17.1 Subject to Rule 17.2 a Modification of a Contract which is not subject to the Procurement Regulations may be permitted if any of the limited criteria below applies:

(a) the original tendered Contract or Call-Off Contract contains clauses allowing such Modifications provided that such clauses:

(i) list the scope and nature of possible Modifications as well as the conditions under which they may be used, and

(ii) do not provide for Modifications that would alter the overall nature of the Contract or the Call-Off Contract;

(b) the Modification is for additional Supplies, Works and Services by the original Contractor that have become necessary and were not included in the initial procurement or commissioning exercise, where a change of Contractor:

(i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, and

(ii) would cause significant inconvenience or substantial duplication of costs for the Council

(c) where all of the following conditions are fulfilled:

(i) the need for the Modification has been brought about by circumstances which a diligent Contracting Authority could not have foreseen; and

(ii) the Modification does not alter the overall nature of the Contract or Call-Off Contract;

(d) where a new Contractor replaces the one to which the Council had initially awarded the Contract or Call-Off Contract as a consequence of:

(i) a clause or option in conformity with Rule 17.1(a); or

(ii) a takeover of the Contractor following corporate restructuring, including takeover, merger, acquisition or insolvency, by another Economic Operator that fulfils the criteria for qualitative selection initially established, provided that this does not entail any other substantial Modifications to the Contract or Call-Off Contract;

(e) provided that the proposed Modification, irrespective of its value, is not substantial within the meaning of Rule 17.2.

17.2 A Modification of a Contract or Call-Off Contract during its term shall be considered substantial for the purposes of Rule 17.1 where one or more of the following conditions is met:

(a) the Modification renders the Contract or Call-Off Contract materially different in character from the one initially concluded;

(b) the Modification introduces conditions which, had they been part of the initial procurement procedure, would have:

(i) allowed for the admission of other candidates than those initially selected,

(ii) allowed for the acceptance of a Tender other than that originally accepted, or

(iii) attracted additional participants in the procurement procedure;

(c) the Modification changes the economic balance of the Contract or Call-Off Contract in favour of the Contractor in a manner which was not provided for in the initial Contract or Call-Off Contract;

(d) the Modification extends the scope of the Contract or Call-Off Contract considerably;

(e) a new Contractor replaces the one to which the Council had initially awarded the Contract or Call-Off Contract in cases other than those provided for in Rule 17.1(d)

(f) the Modification increases the contract value for Supplies or Services by more than 10% and for Works by 15%.

17.3 For the purposes of Rule 17.2, if several successive Modifications are made, the value shall be assessed on the basis of the net cumulative value of the successive Modifications.

17.4 A Modification of a Contract which is subject to the Procurement Regulations, shall be governed by the relevant legislation and the procedure in Rule 17.5 below.

17.5 Procedure for Modifications

17.5.1 a Modern.gov report must be completed which provides full details of a substantial Modification and any supplementary documentation to enable the relevant Decision Maker (see table in Rule 14.1) giving the approval to make a fully informed decision. For the avoidance of doubt, the value of the modification and not the modified value of the Contract shall govern the Decision Maker.

17.5.2 in giving approval, the Decision Maker must take account of any advice given by the Head of the Commercial Procurement Unit and the Director of Legal and must ensure that such advice is included in any report to the Decision Maker.

17.5.3 written approval must be obtained to any Modification in accordance with the Council's Officer and Executive Member Scheme of Delegation.

17.5.4 no commitment should be made to a potential Contractor prior to approval.

17.5.5 the Head of the Commercial Procurement Unit is responsible for ensuring that a complete record of all Modifications is kept and a record of the decision approving a Modification and the reasons for it must be stored electronically in Modern.gov and on The Chest.

17.5.6 a notice of the Modification of a Contract under Rules 17.1 (b) and (c) with a value over the relevant procurement threshold shall, where required, be published in the Find a Tender in accordance with the Procurement Regulations.

18. TERMINATION OF CONTRACTS

18.1 Prior to any action being taken, the Head of Procurement and/or Director of Legal shall be consulted with regard to any proposed termination of any Contract or Call-Off Contracts.

19. CLAIMS ARISING FROM CONTRACTS

19.1 Officers shall inform the Head of the Commercial Procurement Unit immediately of any claims (or anticipated claims) by or against a Contractor that are the subject of a dispute between the Council and the Contractor, and the Head of the Commercial Procurement Unit shall inform and consult with the Director of Legal to agree a course of action.

19.2 Claims arising in respect of matters not clearly within the terms of any existing Contract shall be determined by the Executive Director, or a Director (as appropriate) after having taken the advice of the Director of Legal and the Director of Finance.

19.3 Where completion of the supply of Works, Supplies or Services under a Contract are likely to be delayed, resulting in claims under the Contract, Officers shall inform the Head of the Commercial Procurement Unit immediately, and the Head of the Commercial Procurement Unit shall inform and consult with the Director of Legal to agree a course of action.

20. MONITORING CONTRACTS AND CALL-OFF CONTRACTS

20.1 All Contracts must have a Contract Owner.

20.2 The Contract Owner will be responsible for the whole of the commissioning, cycle including completing the governance and legal formalities, reviewing, monitoring and evaluating the Contract to ensure that its provisions and the Supplies, Works or Services or (or Concession) within it are being followed and performed as they should be. The Contract Owner shall understand the Specification, contractual terms and the performance framework and must manage activity ensuring that Contracts do not require any extensions beyond the permitted or planned expiry.

20.3 During the life of the Contract, the Contract Owner will monitor the Contract in respect to the following, as a minimum:

(a) performance (against agreed KPIs where relevant) ensuring that where performance falls below expected standards this is managed promptly;

(b) compliance with the Specification and the terms and conditions of Contract;

(c) cost, ensuring that there are no unanticipated variations in price or spend;

(d) any Social Value requirements;

(e) risk Management ensuring risks associated with the Contract are identified and managed and any risk registers are kept up to date;

(f) safeguarding where appropriate; and

(g) user satisfaction.

20.4 The final certificate for payment for any Contract for the delivery of Works shall not be paid until the Contract Owner has performed a reconciliation of all Works completed against the approved costs of the scheme.

20.5 Where any sum or damages is payable to the Council as a result of the default of a Contractor, for example where completion of Works is delayed beyond the contractual completion date, it shall be the duty of the Contract Owner to claim whatever liquidated or other damages may

be due under the terms of the Contract and no waiver of such sum or damages may be given without the approval of the Assistant Director of Legal Services and the Director of Finance.

20.6 Where a Contractor is in breach of its performance of a Contract, a default notice should be issued under the terms and conditions of the Contract to enable the Council to exercise its discretion to claim damages and/or terminate the Contract and exclude the Tenderer from any future tender process.

20.7 Where the Contract is to be re-let, any information gathered by the Contract Owner shall be available to inform the approach to re-letting the next Contract.

20.8 The Contract Owner shall provide advice and support, as required, on good practice in performance management of Contracts.

20.9 All Contracts with a value in excess of £5,000 must be included and published on the Contracts Register maintained by the Commercial Procurement Unit in line with the Local Government Transparency Code 2015. This is a mandatory requirement and it is the responsibility of the commissioning officers to inform the Commercial Procurement Unit.

21. EXEMPTION FROM THE CONTRACT PROCEDURE RULES

21.1 These Rules are mandatory but, in limited circumstances, it may be necessary to seek an Exemption from these Rules. Guidance from the Commercial Procurement Unit must be sought before any Procurement activity commences for which an Exemption may be required.

21.2 An Exemption cannot be given where this would contravene the Public Contracts Regulations 2015, or any other legislation.

21.3 Exemptions will only be considered in exceptional circumstances, including but not limited to:

(a) Proprietary or patented Supplies or Services are proposed to be purchased which are only obtainable from one entity and it can be demonstrated that no reasonably satisfactory alternative to those proprietary or patented Supplies or Services is available;

(b) No genuine competition can be obtained in respect of the purchase of particular Supplies, Services or execution of Works;

(c) The Services or execution of Works are of such a specialist nature that they can only be carried out by one entity (e.g., statutory undertakers);

(d) Supplies are proposed to be purchased by or on behalf of the Council at a public auction;

(e) Supplies or Services are proposed to be purchased which are of a specialist or unique nature (such as a particular performance artist or antiquities for museums);

(f) Repairs or parts if the only option is to repair or buy new parts for existing Supplies, equipment or buildings, and there is only one Contractor;

(g) To comply with a change in legal requirements;

(h) The Contract is for Supplies, Services or the execution of Works which are required in circumstances of extreme urgency, for example, where immediate repairs are required to buildings, structures and other assets damaged by fire, bad weather or vandalism. This only applies to unforseen circumstances;

(i) The provision of Supplies, Works or Services is urgently required because of the failure of a Contractor through unsatisfactory performance or the appointment of an administrator, receiver or liquidator to administer its affairs. The Contract should be re-let at the earliest opportunity in compliance with these Rules;

(j) Where continued provision of Supplies, Works or Services is required for an additional period and this can be justified, for example where a service review includes the intention to co-terminate relevant Contracts within a reasonable period with all exceptional circumstances to be objectively evidenced in the exemption request to enable the decision maker to reach an informed and reasonable decision in the circumstances.

21.4 Procedure for Exemptions over £10,000

21.4.1 To request an exemption from these Contract Procedure Rules, a Modern.gov report must be completed seeking approval for the exemption and authorisation for any expenditure. It must be signed only by those authorised to award a Contract under Rule 14.1.

21.4.2 An exemption request can only be authorised by the Executive Director of Resources, or a Director who does not have direct line management responsibility for the service.

21.4.3 The Modern.gov report must provide full details of the request and any supplementary documentation to support the request and evidence the specific ground for the exemption.

21.4.4 No commitment should be made to a potential Contractor prior to authorisation.

21.4.5 The Head of the Commercial Procurement Unit is responsible for ensuring that a complete record of all Exemptions is maintained. A copy of the signed delegated/Cabinet decision approving an Exemption and the reasons for it must be forwarded to the Commercial Procurement lead.

21.4.6 In circumstances of extreme urgency, the relevant decision maker utilising Rule 21.3 (h) or (i) above may authorise an Exemption in writing without the need to complete a Modern.gov report. As soon as practicable a Modern.gov report must be submitted and approved in accordance with this Rule.

21.4.7 The written authorisation must be provided in accordance with this Rule 21.4 and must be stored electronically on the Chest.

21.5 All Exemptions reports require comments from the Head of Procurement, Director of Finance or their nominated Deputy.

21.6 A direct award of a Contract following an exemption should comply in all other respects with the Council's Contract Procedure Rules and the Council's terms and conditions of contract should be used where possible.

21.7 The Council cannot use an exemption to depart from the Procurement Regulations and a Voluntary Transparency Notice may be required to inform the market of a direct award.

21.8 Where an Exemption is granted, the Contract shall still be made subject to the Council's standard terms and conditions where possible and in accordance with any relevant requirements detailed in Rule 10.1. Any amendments required to the Council's standard terms and conditions shall be approved by Legal Services prior to issuing as part of the procurement process. Legal Services will review and draft the terms and conditions for any bespoke contracts.

21.9 On an annual basis, the record of authorised exemptions maintained by the Head of the Commercial Procurement Unit, should be reported to the Audit Committee for review.

22. DECLARATIONS OF INTEREST and ANTI-BRIBERY and CORRUPTION

22.1 The Council's reputation with regards to Procurement activity is important and should be safeguarded from any imputation of dishonesty or corruption. All elected Members of the Council and Officers are reminded of their responsibilities in relation to gifts, hospitality and any conflicts of interest and should ensure that they comply with the obligations set out in the Council's Members' Code of Conduct and the Employees Code of Conduct respectively and any other relevant policies, guidance or strategies relating to bribery, fraud and corruption issued or endorsed by the Council from time to time.

22.2 Any Officer or Member must declare any interest which could influence their judgement in relation to Procurement activity in accordance with the Council's Codes of Conduct.

22.3 No gifts or hospitality should be accepted from any Tenderers involved in Procurement activity except in accordance with the Council's Codes of Conduct. Relevant interests, gifts and hospitality should be registered on the Council's e-register.

23. DEFINITIONS

23.1 Within the Contract Procedure Rules, the following definitions are used:

23.1.1 “Call-Off Contract” means a Contract which is entered into under a Framework Agreement in accordance with the terms and conditions of that Framework Agreement

23.1.2 “Closed Tender” means a procedure for inviting a select number of Tenderers and the tender opportunity not advertised

23.1.3 “Concession” means a Contract under which a Contracting Authority outsources Supplies, Services or Works to a contractor or provider, who then has the right to commercially exploit those Supplies, Services or Works in order to recoup its investment and make a return on the proviso that the contractor or provider bears the operating risk and has no guarantee of recouping its investment or operating costs

23.1.4 “Contract” means an agreement in writing for consideration (money or money’s worth) between the Council and a Contractor for the provision of Supplies, Works or Services by the Contractor or the granting of a Concession, including a compliant Framework Agreement and a Call-Off Contract under a compliant Framework Agreement and a Purchase Order

23.1.5 “Contracting Authority” has the meaning set out in the Public Contracts Regulations 2015

23.1.6 “Contractor” includes any sole trader, partnership or company (limited or unlimited) or any duly incorporated trade, consortiums or unincorporated bodies, professional or commercial body or voluntary body; (although the Council must only contract with legal entities)

23.1.7 “Contract Owner” means the lead stakeholder or commissioner for the proposed contract

23.1.8 “Contract Value” means the amount the Council pays to the Contractor under the Contract inclusive of VAT

23.1.9 “Contracts Finder” the UK’s electronic procurement portal for contracts with a value of £25,000 or above

23.1.10 “Contracts Register” means a comprehensive list of all Contracts that the Council procures, detailing key attributes such as type, term, value and Contractor and Procurement/ Directorate contact details

23.1.11 “Director of Finance” means the Chief Officer designated under section 151 of the Local Government Act 1972 or his/her nominated representative

23.1.12 “E-auction” is a means of carrying out purchasing negotiations via the Internet. It is a real time event that occurs online, allowing multiple Contractors in different geographic regions to place bids and modify simultaneously

23.1.13 “E-procurement System” means Council’s e-tendering portal, The Chest (or equivalent)

23.1.14 “Find a Tender” means the UK’s electronic procurement portal for contracts with a value which is above the relevant Procurement Regulations threshold

23.1.15 “Financial Management System” means the Council’s electronic purchasing and payments system, Agresso (or equivalent)

23.1.16 “Framework Agreement” means an agreement which allows the Council to enter into Call-Off contracts for Supplies, Works or Services or Concessions in accordance with the terms of the overarching agreement, including an agreement for a Dynamic or Flexible Purchasing System

23.1.17 “Grant” means an award of money from the Council to another organisation or an award to the Council from a third party for the purpose of giving a benefit to a third party which is not Supplies, Services or Works. A grant awarded by the Council shall, where appropriate, be made subject to a written Grant agreement specifying the conditions upon which the grant is made and including that the grant can be clawed back if the conditions are not met

23.1.18 “Invitation to Tender” means a request for Contractors to submit a Tender to supply Supplies, execute Works or provide Services at specified charges or rates of charges

23.1.19 “Modification” means any change to a Contract

23.1.20 “Most Economically Advantageous” means using a cost-effectiveness approach or price/quality ratio which offers the best price (this will not necessarily be the lowest price)

23.1.21 “Open Tender” means a procedure for inviting Tenders by advertisement in which an Invitation to Tender is sent to all Contractors who express an interest in Tendering

23.1.22 “Officer” includes any employee of the Council

23.1.23 “Procurement” means the process leading to the award of a Contract

23.1.24 “Procurement Regulations” means the Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016 and the Utilities Contracts Regulations 2016 as amended by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (EU Exit Regulations) and as may be consolidated, extended, re-enacted or replaced together with such other UK regulations as may be made from time to time

23.1.25 “Purchasing Consortia” means an organised and constituted body of individuals who jointly participate in the Procurement and award of a Contract

23.1.26 “Quotation” means a formal offer to supply Supplies, execute Works or provide Services at specified charges or rates of charges

23.1.27 “Scheme of Delegation” means the document described as such within the Constitution

23.1.28 “Services” includes services for the provision of labour, advice, care and support services for people, installation, implementation, testing, management services (including project and programme management and consultancy services), maintenance, repair and support services

23.1.29 “Supplies” covers an item(s) of equipment, plant, machinery, vehicle, tool, portable building, materials, software or other similar object, whether inanimate

or electronic, to be supplied or delivered by the Contractor and procured by Oldham Council and includes any documentation

23.1.30 “Tender” means a formal offer to supply or purchase Supplies, execute Works or provide Services at a stated price or offer to be granted a Concession

23.1.31 “Tenderer” shall mean any potential Contractor submitting a Tender

23.1.32 “Works” means the carrying out of construction or undertaking of engineering or other practical work, which normally requires the provision of labour services and materials to build, construct or physically provide parts of Services during a project implementation period.

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Part 4H
Employment
Procedure Rules

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PART 4 - OFFICER EMPLOYMENT PROCEDURE RULES

1. Recruitment - openness and transparency

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 Officer of the Council; or of the partner of such persons.

b) No candidate so related to a Councillor or an Officer will be appointed without the authority of the Council's Chief Officer with responsibility for employment and personnel matters 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 seeks 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 seek 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 a Head of Paid Service or a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

a) draw up a statement specifying:
   i. the duties of the post concerned; and
   ii. any 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.

3. Appointment of Staff

3.1. The Head of Paid Service

Where a Committee or Sub-Committee is discharging, on behalf of the authority, the function of the appointment of an Officer designated as the Head of Paid Service, the Council must approve that appointment before an offer of appointment is made to that person.

3.2 Where a Committee or a Sub-Committee of the authority is discharging, on behalf of the authority, the function of the appointment of an Officer designated as the Head of Paid Service, at least one member of the Cabinet must be a member of that Committee or Sub-Committee.

3.3 **Chief and Deputy Chief Officers**

For the purpose of this Rule, a Chief Officer and a Deputy Chief Officer are defined as

a) a statutory Chief Officer within the meaning of section 2(6) of the Local Government and Housing 1989 Act (hereafter "the 1989 Act");
b) a non-statutory Chief Officer within the meaning of section 2(7) of the 1989 Act;
c) a Deputy Chief Officer within the meaning of section 2(8) of the 1989 Act.

3.4 Where a Committee or a Sub-Committee of the authority is discharging, on behalf of the authority, the function of the appointment of a Chief or Deputy Chief Officer, at least one member of the Cabinet must be a member of that Committee or Sub-Committee (hereafter 'the appointor').

3.5 The authority may delegate the function of the appointment of a Deputy Chief Officer to the Head of Paid Service who may sub-delegate the function to another Officer (hereafter 'the appointor').

3.6 An offer of an appointment as a Chief or Deputy Chief Officer (for clarification this includes the Head of Paid Service) 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; and
b) the Proper Officer has notified every member of the Cabinet 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 Leader of the Council on behalf of the Cabinet to the Proper Officer; and
c) either
   i. the Leader of the Council has, within the period specified under Sub-paragraph (b)(iii), notified the appointor that neither he/she nor any other member of the Cabinet has any objection to the making of the offer;
   ii. the Proper Officer has notified the appointor that no objection was received by him within that period from the Leader; or
   iii. the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

3.7 **Other Staff**
Subject to the preceding paragraphs, the function of the appointment of a member of staff of the authority must be discharged, on behalf of the authority, by the Head of Paid Service or by an Officer nominated by the Head of Paid Service.

3.8 Notwithstanding, nothing shall prevent a person from serving as a member of any Committee or Sub-Committee established by the authority to consider an appeal by another person against any decision relating to the appointment of that other person as a member of staff of the authority.

4. Discipline and Dismissal of Staff

4.1 **The Head of Paid Service, Chief Finance Officer and Monitoring Officer**
The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer may only be dismissed by the Council in accordance with the procedure set out in this part.

4.2 The authority may appoint a Committee or a Sub-Committee to recommend to the Council any action in respect of the discipline and dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.

4.3 The authority must appoint an Independent Panel as a Committee under section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of Head of Paid Service, the Chief Finance Officer or the Monitoring Officer. The Panel shall comprise at least two relevant Independent Persons who have been appointed by the authority under s28(7) of the Localism Act 2011 or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

4.4 The Council must appoint to the Panel such relevant independent persons who have accepted an invitation in accordance with the following priority order —
a) a relevant independent person who has been appointed by the Council and who is registered as a local government elector in the authority's register of electors;
b) any other relevant independent person who has been appointed by the Council;
c) a relevant independent person who has been appointed by another authority or authorities.

4.5 The Council must appoint the Panel at least 20 working days before the relevant meeting.

4.6 Before the taking of a vote at the relevant meeting of the Council on whether or not to approve such the dismissal of Head of Paid Service, the Chief Finance

Officer or the Monitoring Officer, the Council must take into account -

a) any advice, views or recommendations of the Panel;
b) the conclusions of any investigation into the proposed dismissal;
c) any representations from the relevant Officer; and
d) any other matter the Council considers necessary and Proper to consider.

4.7 Disciplinary action against the Head of Paid Service, Chief Finance Officer and Monitoring Officer short of dismissal may be taken either by

a) the Council on receipt of any advice, views or recommendations of an Independent Panel established under dismissal procedures and having taken account of the conclusions of any investigation into the proposed dismissal and any representations from the relevant Officer; or
b) the relevant Committee or Sub-Committee.

4.8 **Chief and Deputy Chief Officers**

For the purpose of this Rule, a Chief Officer and a Deputy Chief Officer are defined as

a) a statutory Chief Officer within the meaning of section 2(6) of the Local Government and Housing 1989 Act (hereafter “the 1989 Act”); or
b) a non-statutory Chief Officer within the meaning of section 2(7) of the Act; or
c) a Deputy Chief Officer within the meaning of section 2(8) of the 1989 Act,

but does not include any Officer who is included under Rule 4.1 above.

4.9 Where a Committee or a Sub-Committee of the authority is discharging, on behalf of the authority, the function of the dismissal of any of a Chief or Deputy Chief Officer, at least one member of the Cabinet must be a member of that Committee or Sub-Committee (hereafter ‘the dismissor’).

4.10 The authority may delegate the function of the dismissal of a Deputy Chief Officer to the Head of Paid Service who may sub-delegate the function to another Officer (hereafter ‘the dismissor’).

4.11 Notice of the dismissal of a Chief or Deputy Chief Officer (for clarification this includes the officers listed at paragraph 4.1) 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 Cabinet of the authority 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 Leader of the Council on behalf of the Cabinet to the Proper Officer; and

c) either -

i. the Leader of the Council has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he nor any other member of the Cabinet has any objection to the dismissal;

ii. the Proper Officer has notified the dismissor that no objection was received by him within that period from the Leader; or

iii. the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

4.12 **Other staff**

Subject to paragraphs 4.1 to 4.11, the function of the dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the Head of Paid Service or by an Officer nominated by the Head of Paid Service.

4.13 Notwithstanding, nothing shall prevent a person from serving as a member of any Committee or Sub-Committee established by the authority to consider an appeal by a member of staff of the authority against any decision relating to the dismissal of or taking disciplinary action against, that member of staff.

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Councillor Model Code of Conduct

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub- committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority’s requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

The general conduct guidance follows below:

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor - officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- **a. given to me in confidence by anyone**
- **b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - **i. I have received the consent of a person authorised to give it;**
  - **ii. I am required by law to do so;**
  - **iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - **iv. the disclosure is:**
    - **1. reasonable and in the public interest; and**
    - **2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - **3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For

example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- **a. act in accordance with the local authority's requirements; and**
- **b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

11 If any member has any safeguarding concerns , including child sexual abuse and exploitation, in connection with any person, it is the duty of the member to report these concerns to the Multi Agency Safeguarding Hub (MASH).

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness
Holders of public office should act solely in terms of the public interest.

Integrity
Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity
Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability
Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness
Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty
Holders of public office should be truthful.

Leadership
Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B - Registering Interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1** (**Disclosable Pecuniary Interests**) which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2** (**Other Registerable Interests**).

"**Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"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.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.

3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non-participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which ***directly relates*** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose

the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which ***directly relates*** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which ***affects*** –

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a relative or close associate; or
- c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above***) affects*** the financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the **Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.**

Table 1: Disclosable Pecuniary Interests

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 to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her 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.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer

Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i)) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (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 the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

* 'director' includes a member of the committee of management of an industrial and provident society.

* '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.

Table 2: Other Registrable Interest

You must register as an Other Registerable Interest :

a) any unpaid directorships

b)any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority

c) 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 a member or in a position of general control or management

Arrangements for dealing with complaints

https://www.oldham.gov.uk/homepage/1653/arrangements_for_dealing_with_complaints_about_the_code_of_conduct_for_members

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The Employee Code of Conduct (also known in the Constitution as the Officer Code of Conduct)

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Introduction

1. The purpose of the Employee Code of Conduct is to help employees in contributing to the achievement of the Council's ambitions by providing a clear set of principles that underpin how the Council work and the behaviours and standards that are needed to achieve this vision. Working in accordance with the code also helps the Council provide the best possible service to the public. It helps protect the Council's reputation and ensure that we are trusted to deliver high quality services, with the public interest at the heart of everything we do

.

2. The Code of Conduct covers all staff employed by the Council. The Members Code of Conduct is in place to guide the standards and behaviours of Members.

3. If your role entails you working as part of a partnership arrangement with another organisation, the Employee Code of Conduct still applies to you.

4. The Code is incorporated into your terms and conditions of employment. Individual service regulations and rules provide more detailed guidance for staff, and in some service areas certain roles are governed by specific professional standards and legislation.

5. Failure to comply with the Employee Code of Conduct, service or professional standards may result in disciplinary action in accordance with the appropriate policy, You should make yourself familiar with the policy which outlines the standards of behaviour expected of you and examples of the type of actions that would require disciplinary action to be taken. A serious breach of this code would include, for example, theft, fraud, or misuse of council property which are offences classed as gross misconduct.

6. You will be indemnified from personal legal action against you if you are acting in good faith in the discharge of your duties.

7. You should seek advice from your line manager or Human Resources if you are unclear about any aspect of the code or associated guidance. If you are a manager, you should make sure those who report to you know about and understand the code, and act if there is behaviour which is inconsistent with it.

8. If you are working for another organisation whilst still employed by the Council (for example when undertaking employer supported voluntary work or on secondment) you are expected to continue to act in accordance with this code to help ensure that the public have confidence in us and the services the Council provide.

The Principles in the Code of Conduct

1. These principles assist in ensuring there is a clear framework of standards within which the Council operates.

2. These provide key guidance on the ethical standards which all people who hold public office should comply with and these standards are reflected in the seven principles of working.

3. An overview of the principles is provided below:

   - ***We serve the public***

     We are here to provide services to the public and we always deliver the highest standards of service.

   - ***Respect for Others***

     We treat all people with dignity, consideration, and respect.

   - ***Accountability***

     We are all trusted to deliver high quality services and in return it is expected that we act responsibly. We are accountable to our Managers, the Council as a whole and the public for our decisions and actions.

   - ***Fairness***

     We treat people fairly regardless of their age, gender, disability, gender reassignment, race, religion or philosophical belief, sex, sexual orientation, and marital status. Decisions are made fairly, consistently and on merit.

   - ***Openness***

     The public have a right to know and understand reasons behind key decisions. We act and take decisions openly and transparently .

   - ***Honesty and Integrity***

     We are honest and truthful and act according to the public, rather than our own, interests.

   - ***Leadership***

     We promote these principles in everything we do and act in ways to inspire public confidence.

Serving the public

1. Serving the public is at the heart of what we do, whether we work directly with the public, or provide important support that enables customer facing staff to provide the highest possible standards. You should make yourself familiar with any service specific customer service guidance that you are required to follow, in addition to the general standards set out below.

Customer Service Standards

1. Members of the public should be treated with dignity and respect. To help build constructive relationships with our service users, we must take the time to listen and understand. We should work with service users recognising their unique skills and knowledge and the role they can play in facilitating positive change. This helps us to build better relationships and be more empathetic and responsive to individual needs.

2. You also have a right to be treated with dignity and respect by our service users. You are not expected to tolerate aggressive, abusive, or violent behaviour. This includes hate crimes, which are crimes that are targeted at a person because of hostility or prejudice towards that person's disability, race or ethnicity, religion or belief, sexual orientation, or transgender identity. If you experience this, you should report this to your manager and be supported appropriately.

Dress Code

1. You are expected to dress appropriately according to the service that is being delivered and your role within the organisation and you should refer to any service specific guidance that applies.

2. Uniform, and clothing provided for health and safety reasons must be worn.

3. The Council values and welcomes the ethnic, religious and gender diversity of our work force and service dress codes will include ethnic and religious dress requirements to ensure that you are free to wear them.

4. Employees must ensure that their official ID is visibly displayed at all times whilst on Council premises.

Respect for Others

1. Trust, listening and understanding are critical behaviours and essential to developing strong working relationships which will allow us to deliver our objectives. Respectful treatment of others is crucial in your use of Social Media.

Our relationships

1. Internally it is important that we work as one organisation and have constructive working relationships within our teams and are also able to work across teams, services, and directorates. Externally we need to be adaptable to the distinctive styles and approaches of the diverse range of service users, partners, and agencies that we work with.

2. You should be professional in your behaviour towards colleagues and we should treat each other with mutual dignity and respect. The Council does not tolerate behaviour that undermines dignity or respect or can cause others to think less or be disrespectful towards any individual or group. In addition, if you experience bullying or harassment or at work, this should be reported to your manager, or an alternative manager if this is preferred, at the earliest opportunity.

3. Complaints can be raised through policies to support fair treatment and resolution of employees complaining about behaviour in the workplace, including harassment and victimisation by other employees or managers.

Relationship with your manager

1. Managers have a duty of care to staff and are responsible for ensuring clarity of role, monitoring of performance, and setting reasonable standards around behaviour within a particular role. Regular discussions between you and your line manager help you meet your goals and progress key actions.

Relationship with councillors

1. Employees serve the Council as a whole. Mutual respect between employees and councillors is also essential to provide high quality services. Depending on your role, you may be required to give advice to members as part of your duties.

2. Close personal familiarity between employees and individual Councillors should be avoided as this can damage the ability of both parties to act objectively and create a perception of bias with other employees, Councillors and the public.

3. Members have been elected by local people to represent them and their position should be recognised regardless of your own views. If employees or councillors feel that they have not been treated with respect by the other, this can be raised with the appropriate Chief Officer or the Chief Executive.

Relationship with service users

1. You should ensure that you treat all service users with dignity, respect, and impartiality. Avoid unnecessary personal familiarity with service users you come into contact within the course of your work. You should not use your position to take or confer unfair advantage of people accessing our services or allow yourself to be unduly influenced by service users.

2. Your role may involve work with vulnerable service users. All support and interactions with these service users during your employment must comply with relevant legislation, professional standards, and service rules.

Use of Social Media

1. Social media channels provide the Council with unique opportunities to build relationships and to connect and engage with our communities. People often wish their preferred way of communicating with the Council to be through social media.

2. Social media should be used in a respectful way and supports the Council's leadership role in the community, maintaining the trust of all our stakeholders. It is also here to support and protect you as our staff.

3. It is important that you are aware of the negative impact that inappropriate personal social media activity can have on the trust in the Council and the services provided. You are therefore expected to maintain the behaviours outlined in this Code.

4. If you choose to access social networking sites and/or other online forums or blogs you are expected to act responsibly and exercise judgement regarding what is appropriate to post online.

5. Inappropriate or offensive activity on social media that is brought to the Council's attention may result in disciplinary action.
6. Even if you do not identify yourself on Social Media as a Council employee these standards apply.

7. Be aware of any real or perceived conflicts of interest that could occur if you include service users, their families, friends, contractors used by the council or Councillors as 'friends' on social media. You should exercise judgement when you decide whether it is appropriate to accept a friend request.

8. Do not publish anything that is confidential to the council or use social media to comment on potentially sensitive matters in any context. This could include, for example politically sensitive information and information about service users who use our services.

Official use of social media for Council business

1. You may be required and encouraged as part of your role to use Council social media accounts to further Council business. Social media is a welcomed and valued tool of engagement however you must be aware that information you post in this context must reflect our values. Social media posts and interactions are public statements and count as a council record as well as evidence of the Council's work. They can be used as reference at any time in the future and you are responsible for anything that you say online.

Behaviour outside Work

1. The principles of behaviour and respect for others outlined in this Code extend to other situations outside work that may result in a conflict of interest or impact on your suitability

for your role. For example, abusive, violent, or discriminatory behaviour towards another person outside of your workplace, could be treated as a breach of this code and result in disciplinary action.

2. You should be aware that it is particularly important that behaviour meets the standards outlined in this code at events that are recognised as council led or organised events.

Accountability

1. As council employees you are responsible for your behaviour, the decisions you make and your use of Council resources and equipment. This section outlines key areas where responsible actions are integral to your role in the Council. This includes your safeguarding duty, your accountabilities in line with key employment policies, environmental responsibility, your use of Council resources and your protection of information.

Safeguarding

1. The Council has a statutory duty to protect children and adults. If, following contacts with adults or children, you have any safeguarding concerns, you should report to the appropriate safeguarding team.

Attendance

1. Levels of attendance have a major impact on the quality of services we can provide to the public.

2. Managers are expected to provide a supportive work environment that promotes health and wellbeing, to enable maximum attendance at work. In return, whilst it is recognised that there may be times when you are prevented from attending work due to ill health, you are expected to take personal responsibility for supporting your health, by, for example attending appointments or treatment programmes where appropriate. You must also follow the attendance reporting and recording procedures set out in the appropriate policy.

3. We are committed to supporting our disabled employees and those staff with physical or mental health conditions, through providing reasonable adjustments, in line with the Equality Act 2010. Managers are responsible for ensuring that reasonable adjustments such as, but not limited to; flexible working, aids and adaptations, disability related leave, assistive technology, and job redesign, are identified, put into place in a timely manner and reviewed regularly for effectiveness or a change of circumstance**.**

Performance

1. You are responsible for delivering work of the highest possible standard to ensure that the public receives the quality services that they have a right to expect. You are expected

to seek support where you identify a need and discuss any issues that may be impacting on performance with your Manager.

2. Managers are responsible for communicating clear targets and standards, providing appropriate training and support, and ensuring any workplace assessments and adjustments are implemented. Managers and staff should work together to identify development needs and ensure that suitable development plans are put in place.

3. It is recognised that there may be occasions when there are performance issues that need to be addressed.

Health and Safety

1. The Council has a legal duty to ensure that working here is safe and healthy. You also have a personal responsibility for the health and safety of yourself and others. You have a vital duty to raise concerns about health and safety issues, identify hazards, give your opinion on suitable solutions to health and safety problems, participate in training, and contribute to risk assessment and risk control procedures.

2. You must follow established safe systems of work, including the appropriate use of personal protective equipment. At the earliest opportunity report any accidents, incidents and near misses immediately to your line manager. Ensure you have also read the Council's Health and Safety Policy.

3. Managers are responsible for the active promotion of the health, safety and wellbeing of staff and those affected by the work of their teams through risk assessment and consistent application of health and safety arrangements.

Work outside the council

1. All employees have contractual obligations and should not take outside employment which conflicts with Council's interest.

2. All employees graded above spinal column point 28 of the NJC scheme of conditions of service for Local Government Employees are required to obtain the consent of the Council by applying to their Departmental Chief Officer to take outside employment.

Volunteering

1. Volunteering provides a valuable contribution to the community as well as a range of personal benefits and we positively encourage you to participate both outside work or as part of your volunteering leave.

2. There are also an extensive range of public service volunteering activities you can get involved in, which provide important support to critical public services. You are responsible for ensuring that any additional work you undertake does not conflict with your delivery of your primary role within the Council.

Intellectual property

1. The Council will seek to recognise and acknowledge the contributions you make as part of your work, however the intellectual property or copyright of anything created at work as part of your job belongs to the Council. You are not entitled to use, sell or otherwise exploit the rights to this copyright/intellectual property without written permission from the Council and breaching this may be a criminal offence. You should not breach any other employee's intellectual property rights.

Financial Resources

1. The Council's Financial Procedure Rules safeguard our assets and use of resources and you should refer to these when using financial resources, for example when placing orders for goods and services.

Use of Council Systems, Property, Vehicles, Facilities and Equipment

1. The Council's resources are in place to further the council's objectives and deliver council business and should not be used to carry out private work. You must take care when using the council's resources and avoid any damage to them.

2. If you have access to Council assets, which includes property, buildings, cash, equipment, and other assets, including vehicles, you must take responsibility for the security of such assets and ensure assets are managed securely and protected against accidental loss or damage and unauthorised use. Any loss or theft should be reported immediately to your line manager.

Use of Internet or Email

1. Access to email facilities is provided to employees to facilitate council business, but it is recognised that employees may need to use their council account for occasional personal use which is permitted on the conditions set out in the appropriate policy.

2. E-mails will also be monitored using filtering software and all email content must comply with the Council's policy. It is recognised that access to the internet is often essential and necessary for delivering our services. The internet should not however be used in a way which compromises security.

3. There may be occasions when you need to access Council systems from your own personal devices such as laptops/PCs, tablets, or smartphones. It may also be necessary for you to use your own device to facilitate home or mobile working if you are not provided with a mobile Council device. The Internet and Email Policy also sets out the appropriate use of personal devices for these purposes.

Protecting Information

1. Most of us have, as part of our daily role, responsibility for information that must be safeguarded, for example records and details about residents, service users, other employees or partners and businesses. We are trusted with this information and all employees are accountable for ensuring that information is handled, held or shared appropriately. We must make sure:

i. Information is protected against unauthorised access and loss
ii. Confidentiality is ensured
iii. The integrity of information is maintained
iv. That legal and regulatory requirements are met

2. Any data breaches must be reported to your manager immediately and there are some circumstances where formal disciplinary processes will need to be used. These are, for example, if your behaviour is malicious or criminal in intent, there are repeated mistakes or there is evidence of a reckless failure to follow service procedures.

3. Your responsibilities are set out in the Information Governance policies and guidance that are available on the Council's intranet. You must complete essential Information Governance training. Full details of the requirements of data protection legislation are covered in the Council's Data Protection Policy.

Fairness

This section outlines how you can ensure your work is conducted with objectivity and impartiality. It covers Equality, Diversity and Inclusion, and political neutrality.

Equality, Diversity, and Inclusion

1. Oldham has a rich cultural and ethnic diversity which we celebrate, recognising the positive contribution that our many communities make to the borough. We work to meet and exceed our Public Sector Equality Duty which gives us the responsibility of fostering good relationships with our communities, promoting equality and eliminating discrimination.

2. Respect for others is fundamental to our behaviour as council employees, and essential to working together. All members of the local community, service users and colleagues have a right to be treated with fairness and equality regardless of their 'protected characteristic' in line with the Equality Act 2010.

3. Protected characteristics' include age, disability, gender reassignment, race, religion or philosophical belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity. Protection from discrimination extends to perceived as well as actual characteristic.

4. Mutual dignity and respect are vital to strong working relationships. Actions, words, or behaviour that undermine dignity and respect of others will not be tolerated. Any harassment or victimisation at work should be reported to a line manager, or another appropriate manager as soon as possible.

The Flexible Working Policy provides support for employees with responsibilities outside work.

Openness

Openness in all our interactions with the public is essential to developing the trust we need in our services.

Freedom of Information

1. The Council is committed to openness and transparency. We proactively publish a significant amount of information, and make other information publicly available, to support public awareness as well as involvement in our decision making.
2. This principle is supported by The Freedom of Information (FOI) Act 2000 and the Environmental Information Regulations which (unless the information falls within a limited number of exemptions) gives individuals the right of access to recorded information held by the Council.

3. All requests for information should be dealt with in accordance with the Council's procedures. Anyone who makes a request has a right both to be told whether we provide the information, and to be provided with any information that we hold related to the request (unless the information falls within a limited number of exemptions).

Relationship with the press and the media

1. If the press contacts you for comment in the course of your work you must seek advice and authorisation from your Head of Service and the Council's Head of Communications.

Responding to complaints

1. Complaints from members of the public will be dealt with through the Council's complaints procedure. You are expected to be open and honest in responding to any complaints and investigation, and willing to assist as required.

Honesty and Integrity

Honesty and Integrity are fundamental to the relationship we have with our service users and the community we serve.

Political Neutrality

1. You serve the council as a whole and all Councillors, You must remain impartial due to your role as a Council employee and not allow your personal or political opinions to interfere with your work. You must ensure that individual rights of all Members are respected and act in accordance with any rules relating to relationships with Members.

2. On occasions senior officers may be requested to advise or brief political groups. In this instance you must make your Chief Officer aware and seek advice to ensure that this is done in a way which does not compromise political neutrality.

3. If you are in a politically restricted post, this will be incorporated into your terms and conditions of employment and you should be advised on these restrictions as part of your induction into the Council. This means you cannot undertake certain activities.

Declarations of Interest

1. You must not misuse your position to further private interests or the interests of anyone you have a close personal relationship with. A conflict of interest or association is a situation where a reasonable person might think that someone in the same role as you, with the same outside interests, could be influenced inappropriately in the decisions or recommendations you make as part of your work for the council. You should also avoid situations where your involvement or contribution could indirectly compromise the interests or values of the council.

2. Close personal relationships include someone you are married/have a civil partnership with or live with, immediate family (parents, siblings, and children) and close personal friends. If there are any conflicts of interest or association, or potential conflicts of interest or association, you must declare them to your line manager.

3. There are several types of interest which you should declare. These include:

   - Interests (financial or otherwise) that you, your spouse/partner, or immediate family have in any contract that the Council has entered into or proposes to enter into (for example your partner runs a business that is tendering for a Council contract)

   - Interests (financial or otherwise) that you, your spouse/partner, or immediate family have that could conflict with the Council's interests
     (for example, you are a trustee or a board member for an organisation that receives Council funding)

   - Close personal relationships with people at work that could cause a conflict with the Council's interests. This could be, for example you are involved in employment decisions in your service where immediate family also works.

   - Membership of any organisation whose membership could conflict with your employment with the Council (for example you are a member of Governing Body at an establishment that receives Council funding).

   - Outside work (paid or unpaid) that may impact adversely on your employment in the Council (for example you are a Director or Partner in a Business which has a relationship with the Council)

   - Any other known/possible conflicts or outside activities that the Council should be aware of (for example you are involved in policy development in Social Care and a member of your immediate family is in care in the area in which you work)

4. If it comes to your knowledge that a contract in which you have a financial interest has been or is proposed to be entered into by the Council you must disclose this to your line manager.

5. If you do declare any conflicts of interest you should provide the following information:

   - The actual or potential conflict and the parties involved
   - Context to explain why there is conflict
   - Name of the individuals or organisations involved

- Explain if this will be ongoing or specific to a particular decision or piece of work

6. You are required to complete the declaration of interest form. You should consider any new interests that you, your spouse/partner or immediate family or close personal friend may have during the year and any changes should be recorded in a new declaration.

7. An officer shall not accept any fee or reward other than the proper remuneration.

Procurement

1. The tendering process must be fair and transparent. If you are involved in the procurement process you should be clear on your role. If you have both a client and contractor responsibility you must be open and accountable in relation to both roles and declare this as a conflict of interest so that appropriate actions can be taken.

2. You should be fair and impartial when dealing with all service users, suppliers, contractors and subcontractors. Any conflict of interest should be declared, in line with the Declarations of Interest section of this Code, and you should not invite bids from any individual or organisation with whom you have a close personal relationship. If you have access to confidential information on tenders or costs for either internal or external contracts you should not disclose that information to any unauthorised party or organisation.

3. When awarding contracts, you should be mindful of any potential conflict of interest arising from involvement with external contractors or potential contracts, who employ, in a senior or relevant managerial capacity, people you have close personal relationships with.

Recruitment, Selection and Promotion

1. If you are involved in the recruitment process you must make sure that all appointments are made on merit. It is unlawful for you to make an appointment which is based on anything other than the ability of the candidate to undertake the duties of the post
.
2. If you have a close personal relationship with the applicant you must not take any part in the recruitment or selection process involving that applicant. The Council's application forms ask candidates to make a declaration of any potential conflicts they are aware of. You must also inform the recruitment manager if a personal or business relationship exists.

3. You should not be involved in decisions relating to promotion or pay adjustments for anyone with whom you have a close personal relationship.

Gifts and Hospitality

1. As a general rule, offers of hospitality and/or gifts should be declined.

2. You must never accept gifts or hospitality in the following circumstances:

- as motivation or reward for delivery of a Service
- where acceptance places you under inappropriate obligation
- if acceptance could be open to misunderstanding

3. Failure to comply with these standards could lead to disciplinary action. Also, under the Bribery Act 2011, individuals can be prosecuted for accepting or offering bribes.

Accepting Hospitality

1. You may, as part of your duties, be required to represent the Council where hospitality may be offered. Hospitality includes offers of transport, refreshments, meals, accommodation, or events that would normally be paid for.

2. You must make a judgement regarding whether it is appropriate to accept hospitality in any particular case. Where hospitality is offered it should be recorded in the Gifts and Hospitality Register. If you consider it appropriate to attend the event you should ensure that this is authorised by your Head of Service. You do not, however, need to get authorisation to accept a modest working lunch or refreshments received as part of a conference/course that you attend.

Acceptance of Gifts

1. As a general rule, you should not accept gifts from service users, contractors or outside suppliers, commercial partners, or sponsors. All gifts offered (including any declined) should be recorded in the Gifts and Hospitality Register.

2. There is a general exception to this rule in relation to gifts of a modest kind which could include pens or diaries, or other unexpensive item of office equipment which could be received, for example at a conference you attend to develop your professional knowledge. There is no requirement to declare the gift in these circumstances.

3. There are also a few exceptional circumstances where refusing gifts may cause offence and damage relationships with stakeholders. This could be, a very small gift given as a gesture by a service user for services received (for example following a bereavement) where the situation is sensitive, and refusal may cause offence. In these situations, it may not be practical to obtain Head of Service authorisation prior to acceptance and judgement should be applied in each case.

4. In these circumstances it is important that, following acceptance of the gift a decision is made, with your Head of Service, on the most appropriate use for the gift. Options include donating the gift to charity or retaining it within the office if this is not practical. This ensures that you as an individual have not inappropriately benefited from the gift. Heads of Service must indicate they approve the use of the gift in the Gifts and Hospitality Register.

5. Heads of Service are responsible for maintaining registers and ensuring regular review of them. Any issues or risks associated with gifts and hospitality should be escalated to Chief Officers who should have regular opportunity to scrutinise registers.

Criminal Offences

1. You are expected to work within the law. In addition, failure to uphold the law outside work could damage public confidence in you or the Council. Notify the Council immediately in

writing if you are arrested, charged with or convicted of any offence. If the offence damages public confidence in you or the Council; or makes you unsuitable for the job you do, this may impact on your employment and will be dealt with under the Disciplinary Policy.

2. You must cooperate with any checking process where posts are identified as requiring disclosure of criminal convictions, particularly where there is a legal requirement to do so.

Raising Concerns

1. If you become aware of any significant deficiency of service provision, wrongdoing, fraud, customer abuse, breach of procedure or malpractice, you must report this to the appropriate level of management.

2. If you become aware of activities that are illegal, unethical or violate this Code, you must also report this in accordance with the Council's Whistleblowing Policy.

Leadership

Those undertaking leadership roles are responsible for the delivery of high quality providing positive influence, supporting and demonstrating trust in staff and modelling the ethical behaviours needed from their teams. Managers are responsible for ensuring clarity of role and monitoring performance .

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MEMBER/OFFICER PROTOCOL

1. INTRODUCTION

1.1 The purpose of this Protocol is to provide guidance to 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. There are Codes of Conducts for Members and Officers and this Protocol is to be read in conjunction with those Codes and the Council Constitution. The objective of the Protocol and Codes is to enhance and maintain the integrity and proprietary of conduct.

1.2 In particular, this Protocol aims to support the enhancement of local democracy by:

- facilitating the participation of Members and Officers in the Council's policy development and decision-making processes;
- assisting Members and those Officers who support them in their role as representatives of the community within the Council and externally; and
- clarifying arrangements for the provision of the information and support for Members and their party groups.

1.3 Given the variety and complexity of such relations, this Protocol does not seek to be comprehensive. It offers guidance on some of the issues which most commonly arise.

1.4 This Protocol is to a large extent a statement of current practice and working arrangements. 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 unfair influence .

1.5 It is important, therefore, that any dealings with Members and Officers should observe reasonable standards of mutual courtesy and respect and that neither should seek to take unfair advantage of their position in any circumstances.

1.6 At the centre 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, should show mutual appreciation of the importance of work / life balance and

that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party. This standard of conduct should also be adhered to in Members' dealings with Officers employed by external organisations.

1.7 A Member should not raise matters relating to the conduct or capability of an Officer at meetings held in public or in the media or social media. This is a longstanding 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 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.

1.8 Failure to follow this protocol may be a breach of the Code of Conduct for Members.

1.9 Where an Officer considers that they have not been treated with respect and courtesy by a Member, they should raise the matter with their Chief Officer or the Chief Executive as appropriate.

2. OFFICER SUPPORT TO MEMBERS

2.1 Officers being employees of the Council must act in the best interests of the Council as a whole. It is understood however that it is important that there is a close working relationship between Executive Members and Officers who support or interact with them.

2.2 Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change their professional advice.

2.3 Close personal familiarity between individual Members and Officers can damage professional relationships. Situations should be avoided therefore that could give rise to the appearance of improper conduct or behaviour or impression or bias.

2.4 Support from officers is needed for all the authority's functions including full Council, Overview and Scrutiny, the Executive, Regulatory and other committees, Joint Committees and individual Members representing their communities etc. Day-to-day managerial and operational decisions is the responsibility of the Chief Executive and other officers under delegated powers.

2.5 Members should communicate with Officers at the appropriate level. Routine service related enquiries should be initiated through normal departmental

enquiry/contact points. Other matters will normally involve the appropriate Chief Officer or Head of Service. In communicating with Members, Officers should have regard to the Council's Code of Conduct for Employees, the requirements of this Protocol, and any instructions issued by their Departmental management

2.6 It is clearly important that there should be a close working relationship between Chairs of the various committees and the Officers who support and/or interact with them.

2.7 The Cabinet Member or Chair will routinely be consulted as part of the process of drawing up an agenda for a meeting. It must, however, be recognised that, in some circumstances, the proper conduct of business may require a particular matter to be included on the Agenda and that the Cabinet Member/Chair is not entitled to require the removal of such an item from the Agenda. There may also be circumstances in which the Chief Executive and Head of Paid Service, the Monitoring Officer or the Statutory Finance Officer, will be under a duty to submit a report.

3. OFFICER ADVICE TO PARTY GROUPS

3.1 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, 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. 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.

3.2 Attendance at meetings of party groups is voluntary for officers and must be authorised by the Chief Executive (or in their absence the relevant Chief Officer).

3.3 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

3.3.1 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.

3.3.2 Party group meetings, whilst they form part of the preliminaries to Council decision making, are not formal decision making bodies of the 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

3.3.3 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

3.4 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.

3.5 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 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 Council so far as that is necessary to performing their duties.

3.6 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 leaders.

4. USE OF COUNCIL RESOURCES

4.1 The use of the Councils resources including the use of ICT equipment provided to Members of the Council is governed by a guidance note which is circulated to Members.

5. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

5.1 The rights of members to inspect council documents are set out in the constitution in the Access to Information Procedure rules. Members and Officers should both be mindful of their obligations under data protection legislation.

5.2 A Member must not disclose information given to them 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 the criteria in the Code of Conduct apply. A breach of these requirements is a breach of the Members Code. If the breach is serious ,legal action may be brought against the member and/or the Council for damages.

5.3 The Freedom of Information Act 2000 and Environmental Information Regulations 2004 provide rights of access to recorded information held by public authorities. The provision relating to access to Council meetings and documentation are reflected in the Council's constitution.

5.4 Members have a statutory right to inspect any document which contains material relating to any business which is to be transacted at a Council meeting. This right applies in respect of whether or not the Member is a member of the Cabinet or of a Committee, and it extends not only to report which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents which are exempt from publication unless the Member is a member of the relevant Committee. The common law right of Members is much broader and based on the principle that any Member has a prima facie right to inspect Council documents, so far as his/her access to the document is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the "need to know". Where a Member is, in any particular case, entitled to exercise this right depends therefore on the Member's ability to demonstrate that he/she has the necessary "need to know ". In this respect, a Member has no right to a "roving commission" to examine the documents of the Council . Mere curiosity is not sufficient . The crucial question is the determination of the " need to know " for a purpose necessary to enable the Member to carry out his or her public duties. A Member wishing to inspect documents which contain personal information about individuals or a third party would be expected to justify the request in specific terms and compliance with data protection legislation. In any case of any doubt or difficulty, Members should refer to the Chief Executive or Monitoring Officer.

5.5 It is accepted by convention that a Member of one group will not have any "need to know " and therefore no right to inspect , a document which forms part of the internal working of another group

5.6 Any Council information provided to a Member must only be used by the Member for the purpose for which it has been provided which is for the proper performance of the functions of the Council.

6. CORRESPONDENCE

6.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member unless where necessary for the proper conduct of business.

6.2 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.

7. PUBLICITY AND PRESS RELEASES

7.1 Local authorities use publicity to keep the public informed and to encourage public participation in the business of the Council. 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.

7.2 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. If in doubt Officers and /or Members should seek advice from the Chief Executive or the Monitoring Officer.

7.3 All press releases are issued through the Communications Office on behalf of the Council. Individual Officers are not permitted to issue any press release to the media. 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 speaking in connection with the roles undertaken by them. Officers comments can be included on professional and technical issues.

7.4 Any Member who approaches the media on any item involving or affecting the Council without first approaching or consulting the Council (through the relevant Cabinet Member of the relevant Chair or Head of Communications) will be responsible for such action. Any Member who does so should make it clear that he/she is speaking on his/her own behalf, or on behalf of his/her political party, and not representing or speaking for the Council. The Code of Conduct for Employees will require Officers to obtain the approval of their Department before issuing any information to the media.

8. INVOLVEMENT OF WARD COUNCILLORS

8.1 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.

9. FURTHER GUIDANCE

9.1 Any Member of the Council who needs further guidance on any of the matters referred to in the Code, or on any similar or related issues, is advised to contact the Chief Executive or Monitoring Officer . Any Officer needing such guidance should refer initially to his/her manager, who will consult senior management and obtain advice as necessary.

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Part 5D
Budget Protocol – Information Gathering by Political Groups

PART 5D - BUDGET PROTOCOL - INFORMATION GATHERING BY POLITICAL GROUPS

1. PREAMBLE

1.1 As a general rule, financial information sought by any Member of the Council from either the Director of Finance or the Deputy Chief Executive or a Strategic Director/Managing Director will be copied to the respective Committee Chairs/Cabinet portfolio holder for their own information.

1.2 The only exception to this would be if the information was:

a) of a personal nature;
b) was personal to a constituent but the Member had been authorised to receive information (usually Housing Benefits issues); or
c) the information related to the development of a budget strategy.

2. PROPOSED PROTOCOL - BUDGET STRATEGY DEVELOPMENT

2.1 The Director of Finance as Chief Finance Officer must treat these requests on a confidential basis as set out in the professional advice from CIPFA.

2.2 This advice also applies to any qualified member of the Treasury Division staff representing him/her.

2.3 The Deputy Chief Executive/Strategic Directors/Managing Directors are not bound by this advice but it is proposed that any meetings arranged with political groups to establish information to support the budget process should be recorded with notes of the meeting copied to the Chief Executive only and the Director of Finance as well as the Members who attended the meeting.

2.4 Such meetings must have the respective Financial Adviser in attendance, together with any other departmental officer felt to be appropriate.

2.5 The Chief Executive will determine whether any or all of the discussion should be circulated to other groups.

2.6 Discussions between the Director of Finance and political groups will however remain confidential as will any subsequent information given, subject to consulting with the Chief Executive and/or Monitoring Officer on policy/legal issues.

2.7 To the extent that such discussions require consultation with other Chief Officers (for confirmation of questions on issues such as deliverability etc.), this will only be undertaken after agreement with the political group in question.

Part 5E
Land and Property Protocol

LAND AND PROPERTY PROTOCOL

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Part 5(e) Land and Property Protocol

1 GENERAL PROTOCOL

- The Corporate Property Board is to take a corporate approach to the management of property assets whether Council owned or within the ownership of One Public Estate partners. It will be the strategic decision-making group focusing on best use of the Council's land and property holdings, within the context of the corporate strategic framework, in particular the Council's Medium Term Property Strategy (MTPS).

- The Executive Director of Place (Deputy Chief Executive) will have overall responsibility/authority for the Council's Corporate Land and Property Portfolio.

- The Director of Growth will be responsible for the management of all Council owned land and property assets as part of the Corporate Landlord function, in addition to delivery of all strategic regeneration projects.

- Directorates will be considered as tenants occupying corporate buildings. Services must therefore seek advice from the Corporate Landlord when considering future service delivery. This will ensure that all property implications are thoroughly understood and maximise the potential for corporate efficiencies / savings from both Placed Based and One Public Estate perspectives. This will enable Services to focus on service delivery.

- The Council's Community Asset Transfer Policy (as amended in March 2019) and the views of Ward Members are to be considered as part of any proposal to declare an asset within the Council's Land and Property Portfolio as being surplus to the Council's operational requirements.

2 CORPORATE PROPERTY BOARD

The main Terms of Reference for the Corporate Property Board are as follows:

It will comprise at least:

- The Leader of the Council
- The Deputy Leader and Cabinet Member for Finance and Corporate Services
- The Deputy Leader and Cabinet Member for Social Justice and Communities
- The Executive Director of Place (Deputy Chief Executive)

- The Directors of Finance, Legal Services and Economy

The Corporate Property Board's function will be to evaluate business cases and make recommendations to the appropriate decision maker in relation to future property acquisitions aligned the principles of the Council's Commercial Property Investment Strategy.

A quorum of at least 3 members of Corporate Property Board will be required to consider the outline business case of potential investment opportunities, a minimum being one Elected Member, the Director of Finance and the Executive Director of Place (Deputy Chief Executive). If the outline business case is approved, Corporate Property Board will authorise the Director of Growth to complete the purchase.

(i) All land and property shall be treated as a corporate resource.

(ii) The Corporate Property Board will act as the management and decision-making board for the Corporate Landlord, unless directed otherwise within this protocol.

(iii) Service Directorates will be considered as tenants occupying corporate buildings.

(iv) To ensure a corporate approach to meet targets to reduce the amount of office space held by the Council, all planned moves and relocations will be subject to review by the Corporate Property Board and approval to any such moves will be via either the Executive Director of Place (Deputy Chief Executive) or the Director of Growth.

(v) Executive Directors and Directors will be required to account for assets used to deliver services and the Corporate Property Board will challenge existing and future occupation requirements.

(vi) Service Directorates will be required to work with the Corporate Landlord via the Corporate Property Board in respect of proposals to invest in, acquire or dispose of property.

(vii) The Corporate Property Board will regularly review the business case for the retention of Council assets. Each of the Council's assets or group of assets is to have a detailed Asset Management Plan and performance including security of income, income growth and costs will be reviewed annually. Decisions will be provided in respect of future capital investment and retention / disposal of assets.

Consequently, the Estates within the Council's Land and Property Portfolio, ie Service Delivery (Direct and Indirect), Income Generation,

Regeneration, Co-operative and Surplus as established as part of the MTPS, will be subject to continual change. As the Estates are rationalised, opportunities to achieve revenue savings / capital receipts and to reduce backlog maintenance expenditure / increase income will arise.

(viii) Property occupation costs and utilisation will be monitored through the Asset Management process. Any assets considered surplus to the Council's requirements will, in the first instance, be reported to the Corporate Property Board.

3 GENERAL MANAGEMENT PRINCIPLES

The Council has adopted the following key management objectives and principles relating to its' Land and Property Portfolio:

(i) Capital Receipts (see Definitions at Section 16)

Capital Receipts come from the sale of the Council's assets.

In general capital receipts arising from the disposal of housing assets and for which account is made in the Housing Revenue Account (HRA) are governed by the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003. In summary the regulations require that:

- Receipts arising from Right to Buy (and similar) sales may be retained to cover the cost of transacting the sales and to cover the debt on the properties sold, but a proportion of the remainder must be surrendered to central Government;
- Receipts arising from all other disposals may be retained in full provided they are spent on affordable housing, regeneration or the paying of housing debt.

Where the sale of an asset leads to the requirement to repay grant, the capital receipt will be utilised for this purpose. Once these liabilities have been established and provided for, capital receipts will be available to support the capital programme as a corporate resource.

(ii) Land and property running costs, including those relating to carbon emissions, will be optimised to ensure expenditure associated with occupation is minimised, in accordance with the Council's Energy Policy.

(iii) Land and property users have an obligation to significantly reduce running costs.

(iv) The Council will maintain investment into its land and property assets, in accordance with the Building Maintenance Policy (as approved at EMT on 15 January 2015). The Corporate Landlord will report annually on the level of

investment required to maintain the portfolio / corporate estate to a minimum standard of repair and ensuring compliance with health and safety matters.

(v) Partner organisations including Oldham Integrated Care Organisation and others within the public and voluntary sectors will be encouraged to:

a) adopt a collaborative approach to service delivery and
b) share accommodation in order to reduce occupation costs wherever possible,

in accordance with the Council's Co-operative aspirations / objectives (including its' Community Asset Transfer Policy) and the principles of One Public Estate.

(vi) Future developments will incorporate the principles of whole life cycle costing. Capital and revenue programmes will make provision for investment into the Borough's property infrastructure. Provision will depend on the financial resources of the Council and will be determined through the capital and revenue budget planning processes. (See Definitions at Section 16: Capital Expenditure)

(vii) New buildings will be sustainable, based on whole life cycle costing and not initial capital outlay. All new buildings and those subject to significant refurbishment works must have a Building Research Establishment Environmental Assessment Method (BREEAM) rating of not less than good, and/or in accordance with the Council's Energy Policy.

(viii) All reports and Business Cases should incorporate Finance, Legal and Property comments plus any other relevant comments for example, Procurement and Human Resources) and the report author is to confirm that the Council's Land and Property Protocol has been complied with.

(ix) Due diligence will be undertaken including appropriate financial checks to establish whether a potential purchaser / lessee owes the Council any monies as a debt prior to acceptance of any offer for the sale or letting of a Council asset.

(x) The Council is committed to the principle of being a Corporate Landlord.

4 POWERS OF ACQUISITION, APPROPRIATION, HOLDING and DISPOSAL OF LAND

The Council is empowered to acquire, hold, appropriate and dispose of land for its statutory purposes, by a variety of statutes. When preparing an acquisition, disposal or appropriation of land, officers must ensure that the transaction is undertaken using the appropriate powers of the Council for that land and having regard to all legal requirements, including statutory guidance.

Property comments will be required in respect of all reports which have land

and property implications.

5 DETAILED LAND AND PROPERTY PROTOCOL

5.1 Background Matters / General Principles

All land and property, whether held for Service Delivery (Direct or Indirect), Income Generation, Regeneration, Co-operative Use or as part of the Surplus portfolio, will be subject to regular review in accordance with individual Asset Management Plans and the MTPS.

Land owned by the Council acting in its capacity as a charitable trustee should **not** be subject to the regular review process and cannot be disposed of without the permission of the Charitable Trust Committee / The Charity Commission.

The Corporate Landlord will work with Directorates (via DMT's) to ensure that any potential change of direction in service delivery, which has an implication in terms of the Council's future property requirements will be advised at the earliest opportunity.

Any proposed changes will also be in accordance with the Council's Accommodation Strategy.

5.2 Disposal of Land (Best Consideration)

The Local Government Act 1972 Section 123 provides that the Council may dispose of land in any manner it sees fit, subject to the constraint that a disposal must be for the best consideration reasonably obtainable unless the consent of the relevant Secretary of State is obtained.

A disposal includes a lease of more than seven years or an assignment of a lease which has more than seven years to run.

Generally, best consideration will be achieved by offering the land for sale to open competition. Section 123 applies to land held for most of the Council's statutory functions, subject to certain exceptions such as disposal of land held for housing purposes, which are governed by the Housing Acts and for planning purposes which are governed by planning legislation. In such cases, specific legal advice should be sought at the earliest opportunity.

The method and terms of sale will be subject to professional advice on a case by case basis having consideration of paragraph 5.3 below, the Disposals Protocol and Methods of Sale at Appendix B together with the following:

- All disposals and marketing exercises must be carried out observing the principles of transparency, proportionality and equal treatment.

- Techniques can be used to introduce an element of control and these include incorporating options / buy back provisions for the Council should development not be carried out. Buy back provisions should not include repurchasing at less than market value or on any terms which imply a penalty is being imposed for the development not being carried out or completed.

- Heads of Terms should be discussed with Legal Services prior to release.

- Provisions within an agreement can be included to give the Council the ability to approve (as landowner **not** as Local Planning Authority) planning applications before they are submitted.

- The Council is not able to enter into development agreements imposing obligations on buyers / developers to develop sites / carry out works or impose conditions as to how or when a development is carried out unless it has been properly procured.

- The Council can however require that developments are carried out in accordance with planning requirements and any permissions required / obtained, but this cannot include requiring a planning permission to be implemented – it can only condition what happens if a planning permission is implemented [including requiring (where appropriate and reasonable) that once the development is commenced by the carrying out of a material operation then in the interests of the amenity of neighbouring properties the development is brought to practical completion with a specified period (such period to be reasonable in all the circumstances) from the date of commencement (bearing in mind that any obligations relating to the development will be nonetheless difficult for the Council to enforce from a practical point of view save through the exercise or threat of exercise by the Council of a buy back option)].

- The preparation of documents for marketing and any evaluation / scoring mechanisms used must be agreed in advance with Legal Services and (in appropriate cases) Procurement.

- Soft market testing can be conducted where appropriate with advice and support from Legal Services / Procurement.

- Communication with potential bidders and buyers must be clear, consistent and create and maintain a level playing field. Information given out to bidders must be provided to all bidders and records must be kept of all communications.

- Proposals to dispose of high value and / or sensitive disposals and the appropriate route to market should be discussed and agreed in advance with Legal Services and Internal Audit.

- Where a high level of control is desired over specific outcomes on a particular site, then consideration must be given to disposal via a procurement exercise.

- Matters pertaining to best consideration, state aid, public open space and any school / playing field / academy issues need to be taken into account.

5.3 Application of the EU Public Procurement Regime

Certain disposals of land may fall within the definition of “works” contained within the scope of the Public Contracts Regulations 2015, which give effect to European Directive on public procurement. This will need to be considered, for example, where the Council is providing land within a development scheme or is imposing obligations on a developer in order to meet its regeneration objectives, whether through the use of a Section 106 agreement or development agreement.

Care and advice needs to be taken prior to the Heads of Terms stage and advertisement so as to ensure the regulations are not inadvertently triggered for example: the exercise of a decisive influence over the type or design of the works; or works carried out from which the Council either derives an immediate economic benefit; or imposes a legally enforceable obligation to undertake the works (rather than allowing the other party the option of not carrying out or completing the works even if the consequence of that is the loss of the deal).

Officers of the Council should not discuss the details of an individual bid with a prospective bidder before the decision to award the Contract is made. Any discussions as to a potential bidder’s proposals for the site could prejudice the decision making for the award of the Contract. Therefore, any communications should be limited and restricted to writing and all communications should be made with the principles of proportionality, transparency and fairness borne in mind. If the Council wants to test the market for a site to understand its’ best value for money use, then Officers should look to undertake soft market testing, before advertising the site for sale.

This remains a complex area of law and legal advice should be sought at an early stage to determine whether any proposed disposal to a developer should be advertised under the Public Contracts Regulations.

5.4 Disposals of land at less than Best Consideration

The presumption is that land will be sold for the best consideration reasonably obtainable. However, it is recognised that there will be circumstances where the Council will consider it appropriate to dispose of land at less than best consideration; for example to support the Council in achieving its ambitions as a Co-operative Council.

In certain circumstances, the law provides that authorities may dispose of land at less than best consideration. This requires the consent of the relevant Secretary of State, unless a General Disposal Consent (issued by the relevant Secretary of State from time to time) may be relied on. Any decision to dispose of land at less than best consideration may only be made subject to seeking the consent of the relevant Secretary of State where required.

The General Disposal Consent (England) 2003 provides a general consent removing the requirement for the Council to seek specific approval from the Secretary of State for a wide range of disposals at less than best consideration.

The Council have been granted consent in circumstances where:

(A) the difference between the unrestricted value of the land to be disposed of and the proposed disposal price does not exceed £2mllllon; and

(B) the Council considers that the purpose for which the land in question is to be disposed is likely to contribute to the achievement of any one or more of the following objectives in respect of the whole or any part of its area or of all or any persons resident or present in its area:

(i) the promotion or Improvement of the economic well-being;

(ii) the promotion or Improvement of social well-being; and

(iii) environmental well-being.

It must be considered in each case whether a specific proposal to dispose of land at less than best consideration meets these criteria or continues to require specific consent under Section 123 of the Local Government Act 1972, or other legislation. Land held for specific Housing purposes is subject to additional regulation and early legal advice should be sought in such instances.

Any such proposed disposal of land at less than best consideration will need to consider the possibility that the proposed transaction may result in the giving of unlawful State Aid (European Union Treaty article 87(1)).

In determining whether or not to dispose of land for less than best consideration, the Council should obtain a Red Book Valuation from a Chartered Surveyor (valuer) to determine the likely amount of the undervalue (i.e. the difference between unrestricted value of the land to be disposed of and the proposed disposal price). Legal advice should also be obtained on the question of whether the disposal is capable of falling within the terms of the specific consent. In certain cases, it may be prudent to consult the District Auditor in relation to any action that is proposed.

In considering the application of the well being criteria under the General Disposal Consent, the Council must have regard to the Council's Corporate Plan, the Oldham Plan and Co-operative Council ambition and reasonably consider, via the Director of Finance, the extent, if any, to which the proposed disposal supports the aims and objectives therein.

Any proposal to dispose of land at less than best consideration should in the first instance be referred to the Corporate Property Board for consideration. The Council must demonstrate that it has acted reasonably in approving undervalue transactions in order to be in a position to respond to any potential challenge. Regard must therefore be had to the Medium Term Property Strategy, the terms of the Council's Land and Property Protocols and the Council's fiduciary duty. Accordingly, all decisions will address the following issues:

- Confirmation that the disposal will contribute positively to the Council's priorities.
- A statement that the benefits that the Council will derive from the proposed disposal cannot be achieved unless the sale takes place at undervalue.
- Details of the proposed terms of the transaction which will ensure that the disposal will contribute to the achievement or Improvement of the social, economic and environmental well being of the area.

Following review by the Corporate Property Board, any proposed transactions at less than best consideration shall be approved as follows:

- Where the undervalue is up to and including £100,000 by the Director of Growth.
- Where the undervalue Is greater than £100,000 by Cabinet.

For the avoidance of doubt, the Academy Conversions process is excluded from this provision; as such disposals are within a statutory direction.

5.5 Freehold or Leasehold Disposal

For all property disposals considerations will be given to the appropriate tenure of the disposal, whether freehold or long leasehold. The decision will have regard to the benefits of retaining any residual controlling interest against the implications of such action which may for example give rise to on-going estate management responsibilities, maintenance obligations or result in continuing financial costs or charges for the Council either at the time of consideration or at some future date.

The most recent House of Commons Briefing Paper relating to Leasehold and Commonhold Reform (October 2019), outlines amongst other things the Government's intention to legislate and prohibit the creation of new long leasehold tenancies on houses. Consequently, where the disposal of land is intended for residential development purposes, then the Council is to sell its' freehold interest where it currently holds such an interest.

5.6 Lettings

No lettings should be carried out by Service Departments. All proposed lettings should be directed to the Director of Growth in order to protect the Council's interests and Health and Safety obligations.

The taking of or the granting, renewal, assignment, transfer, surrender, taking of surrenders, review, variation or termination of any leases, licences, easements or wayleaves at considerations, delegated as follows:

- For transactions of an Estate Management nature up to a maximum value of £250,000 will be within the delegated authority of the Head of Asset Management and Estates, in consultation with the Director of Growth, Director of Finance and Director of Legal and in consultation with the relevant Cabinet Member .

- For all transactions over £250,000 per annum or in return for a premium of over £250,000 shall be referred to Cabinet for decision.

Leases of over 7 years and assignments of leases with over 7 years to run, are defined in law as disposals. This means that the general requirement to dispose at the best consideration reasonably obtainable will apply to them. Any proposal to dispose at less than best consideration should be dealt with as outlined in the section on Disposal (Best Consideration) above.

Under this protocol, the terms of any proposed letting will be considered by reference to the asset category;

a) Income Generation and Regeneration Estates

- The lettings will be based on commercial terms at full market value provided that the Director of Growth may in consultation the Director of Finance and the Director of Legal authorise a short term let at below market value where this has commercial justification, for example, to cover running costs prior to redevelopment and the asset falls within the Regeneration Estate.

- Concessionary lettings within the Income Generation Estate are not permitted and should Directorates wish to support such an arrangement it will be required to 'sponsor'/ fund the concessionary rent through alternative funding to the level of full market rent.

- Flexibility will be provided in respect of schemes / initiatives specifically directed at supporting businesses, provided that a full business case is in place and the views of the Director of Growth are sought regarding such schemes.

- Legal advice will be required before any concessionary rent is agreed to ensure the Council is not in breach of State Aid Regulations.

b) Service Delivery (Direct and Indirect) Estates:

Lettings to public sector tenants or commissioning partners delivering public sector services will be "at cost".

c) Co-operative Estate:

Letting to community sector tenants may range from "at cost" to an agreed discounted fee ie potential a peppercorn rent dependent on the structure of the organisation, its' relevance to the Council's Social Value Framework and how it benefits the local community.

Legal advice should be sought before any concessionary rent is agreed to ensure the Council is not in breach of State Aid Regulations.

d) Surplus Estate:

Lettings will be based on commercial terms at full market value provided that the Director of Growth may in consultation the Director of Finance and the Director of Legal Services authorise a short term let at below market value where this is beneficial to the longer-term goal of disposing of the asset.

Tenants should not commence occupation of premises in advance of either legal completion of lease or having sufficient legal measures in place to protect the Council's interest.

Rent collection and treatment of arrears should be in accordance with the Council's Protocol for debt recovery.

5.7 Community Transfer

If it is considered that an asset is used for social, community and public purposes and the benefits of that service are deemed to outweigh the value of continuing ownership by the Council on behalf of all Council Tax payers, then the Council may consider the transfer of the asset to a community group. Any such transfer should be in accordance with the Council's Community Asset Transfer policy. See the link below.

https://www.oldham.gov.uk/info/200615/love_where_you_live/2269/community_use_of_council_land_property

If the surplus property has been registered as an "asset of community value", the Council has to ensure that there is opportunity for a Community Right to Bid prior to any disposal process commencing.

5.8 Decision Making

The disposal, acquisition or appropriation of land, including open space, is an executive decision. The Council's Constitution provides for executive decisions relating to land to be made as set out in this document.

A disposal of land that will either generate a capital receipt over £250,000, or result in loss/generation of income over £250,000 will be a key decision and will need to be publicised on the Key Decision Document prior to being submitted to the decision maker. (Full definition of 'Key Decision' within Constitution).

All Key Decisions decisions are made by Cabinet

In order to improve transparency, all property acquisitions will be reported retrospectively to the Capital Investment Programme Board quarterly on a cumulative portfolio basis.

a) Transactions Subject to Cabinet Approval

1. All recommendations to dispose of land for less than the best consideration reasonably obtainable where the likely

undervalueis greater than £100,000.

2. All recommendations to acquire individual plots of land, compulsorily or by agreement, or properties of any value that have not been approved within a scheme of development or regeneration project.

3. All recommendations to acquire by agreement, appropriate or dispose of land or property valued in excess of £250,000.

b) Transactions Delegated to the Executive Director of Place (Deputy Chief Executive) for Approval

Subject to paragraph 5.8 a) 3 the Executive Director of Place (Deputy Chief Executive)is authorised, to approve property acquisitions, appropriations and disposals of land valued below £250,000.

c) Transactions Delegated to the Director of Growth

Subject to paragraph 5.8 a) 3 the Director of Growth, is authorised to approve property acquisitions, appropriations and disposals of land valued at less than £250,000.

d) Transactions Delegated to the Head of Asset Management and Estates

Subject to paragraph 5.8 a) 3 the Head of Asset Management and Estates is authorised to approve property acquisitions, appropriations and disposals of land valued at less than £50,000. Any action taken under this authority will be reported to the Director of Growth, for information.

6 Commercial Property Investment Strategy

All land and property acquisitions for commercial investment will be reported to the Corporate Property Board, specifically those sought to generate a sustainable future income stream to support the Council's mainstream service delivery as part of its' Commercial Property Investment Strategy.

To ensure that good investments are not lost through delays in the decision-making process, Cabinet remains the decision-making body, following recommendations from the Corporate Property Board (CPB).

The Board will comprise Directors of Finance, Legal and Growth, Executive Director of Place (Deputy Chief Executive) and Portfolio Holders for Finance and Corporate Services and the Leader of the Council. A quorum of at least 3 members of the Board

will be required to conduct business, including finance, economy and Member representation.

All property purchases or investments over £250,000 require Cabinet approval.

Assets, Accommodation and Investment (AAI) Group will replace the Property Rationalisation Group to review and report on performance and risks to the work programme. This needs to include external stakeholders such as CCG / OPE and key internal functions such as the corporate estate, finance, legal and Unity partnership in order to act as one integrated team at Head of Service level;

Cabinet shall approve all acquisitions in excess of £ 250,000 unless there is a need to make an emergency decision in which case the emergency provisions within this Protocol will take effect.

The Directors of Finance and Economy also have delegated authority to secure additional specialist external advisors as considered appropriate subject to compliance with the Council's Contract Procedure Rules.

7 Emergency Decisions

In circumstances where actions are required urgently, e.g. bidding at auction to acquire land and property of strategic significance, where the value of the transaction is greater than £250,000, the Executive Director of Place (Deputy Chief Executive) in agreement with the Council Leader and in consultation with the Directors of Finance and Legal (or their duly authorised nominees) will have authority to take appropriate action. An Emergency Action will be reported to Cabinet for information at the next available opportunity.

8 Member Notification

The appropriate Cabinet Member and Ward Members will be notified in advance of all property transactions and their views will be recorded as part of the decision-making process.

The exceptions to this are the sale of individual residential ground rents in accordance with Leasehold Enfranchisement legislation, and decisions delegated to the Head of Strategic Assets and Facilities Management where Ward Members will be notified of day to day estate management matters seven days prior to implementation.

9 Delegated Decision Recording

With the exception of those referred to below, all delegated decisions are to be recorded on ModGov if it is a Principal Decision as defined in the constitution.

Other general estate management decisions delegated to the Head of Strategic Assets and Facilities Management will be recorded to the schedule template.

10 Compulsory Acquisition of Land

Cabinet approval is required for any acquisition of land (or programme of acquisition) where it is proposed to use the Council's powers of compulsory acquisition. Any approval to acquire the same land by agreement should be sought from Cabinet at the same time as the approval to use compulsory powers.

11 Content of Reports

Cabinet reports seeking consent to dispose of or acquire land should include details of the interest held, appropriate site plans and valuation information provided by an appropriately qualified source.

Reports seeking to dispose of land at less than best consideration should in addition, address those matters set out in paragraph 5.4. above including the provision of a Red Book Valuation in respect of the amount of undervalue.

Reports should demonstrate that all relevant legal issues have been considered and addressed and that there is no legal barrier to prevent a decision from being taken.

Where approval is sought for a development scheme or regeneration project, a plan showing the individual properties whose acquisition it is proposed to seek under the scheme or project must be included in the report which seeks approval for the scheme.

12 Independent Valuations of Land/Property

With regard to those transactions for the disposal and acquisition of property that have not been exposed to the open market it is considered prudent to seek an independent valuation from a Chartered Surveyor (valuer) in accordance with the RICS Red Book .

13 Instructions to undertake property transactions

- For the avoidance of doubt, Legal Services will not accept instructions relating to property transactions from service directorates.
- Only transactions correctly approved as set out in paragraph 5.6 and 5.8 will be accepted.
- All instructions to Legal Services will be via the Council's property and asset management system (currently Concerto).

14 Office Moves

As part of its' Medium Term Property and Office Accommodation Strategies, the Council needs to use its' office space in a much more efficient and cost effective manner in order to contribute to annual revenue savings targets.

To achieve this, Corporate Landlord will have full control and oversight in co-ordinating and monitoring office moves across the Council's portfolio.

All Service Managers are to adhere to the Land and Property Protocol and note that all requests for accommodation or office moves within the portfolio need to be referred to Corporate Landlord for written approval prior to any moves taking place.

Requests should include a business case or briefing paper outlining the following:

(i) The reasons for the proposed move including an indicative timescale.

(ii) Estimates for ICT works (including data and power requirements), any works associated with redecoration or alterations, removal costs and any other incidental costs.

(iii) Use of existing or surplus office furniture from within the Council's portfolio should be considered at the outset. The purchase of new furniture will only be considered where the proposed move creates a more efficient and cost-effective use of the office space via for example the use of smaller desks.

(iv) Where a "move request" is Service led as opposed to one proposed by the Corporate Landlord (for example to vacate a building for disposal) then the Service will need to confirm that it has sufficient budget resource to fund its' proposed move.

In the first instance all requests should be directed to the Head of Strategic Assets and Facilities Management for subsequent approval by either the Director of Growth or the Executive Director of Place (Deputy Chief Executive).

The Director of Growth will be responsible for all office accommodation

including relocations in accordance with the Council's Office Accommodation Strategy as part of the wider Corporate Landlord function.

Due to the significant long-term investment involved, express written approval from the Director of Growth is required before considering the installation of IT Hubs in Council property.

15 Service Review

The Corporate Landlord will work with Divisional Management Teams across Services to ensure that strategic and operational property requirements are addressed in line with the Medium Term Property Strategy, the Office Accommodation Strategy and Locality Asset Review.

16 Definitions

Capital Expenditure

Section 16 of the Local Government Act 2003 + Regulation 29A of the Capital Financing Regulations (England) 2003 define capital expenditure as;

1. Expenditure that results in the acquisition, construction, or enhancement of a Fixed Asset.

2. Expenditure where the Secretary of State has made a direction that it can be treated as capital expenditure e.g. exceptional items which would otherwise place an unreasonable strain on revenue budgets.

Capital Receipt

Section 9 (1) of the Local Government Act 2003

"a sum received by the authority in respect of the disposal by it of an interest in a capital asset"

Section 9 (2) defines a capital asset as:

"An asset is a capital asset if, at the time of the disposal, expenditure on the acquisition of the asset would be capital expenditure"

Capital receipts are restricted to use for

- Financing new capital investment
- Reducing borrowing under the Prudential Framework
- To pay a premium charged in relation to any amounts borrowed
- To meet any liability in respect of credit arrangements
- To meet disposal costs (not exceeding 4% of the receipt)

17 PROTOCOL ON DISPOSAL OF OPEN SPACE

17.1 General Principles

The key issue is to make sure that open space (sometimes referred to as public open space) is identified at the earliest possible stage of the disposal process.

As open space is not specifically dealt with in official copies on the Land Registry, the Council has developed an assessment matrix to assist in determining whether the asset is considered to be 'Open Space' and whether any disposal should follow the Public Open Space disposal process as set in this protocol.

A copy of the assessment matrix is within Appendix A.

17.2 Decision Making

Decisions to dispose of open space must be made in two stages. The first stage report is to recommend disposal of the land in principle, subject to the advertising (in an appropriate publication) of the proposed disposal and allowing time for objections.

The second stage report will make recommendations for disposal or retention of the land having regard to any objections, which have been received to the proposed disposal. This report can be incorporated with the report seeking authority to dispose of the land and the terms recommended.

Consideration of the objections and the decision to dispose to be undertaken in accordance with the appropriate delegations set out in the Land and Property Protocol.

Where the land is put to the open market then any offers received will be subject to completion of a separate tender report in accordance with the delegated authority set out within this Protocol under paragraph 5.7 above.

In the event of a sale of land by private treaty for example to an adjoining householder for say garden use, then the Head of Strategic Assets and

Facilities Management has authority to approve such transactions and recorded as such in accordance with paragraph 9.

Sufficient time should be allowed for the completion of the open space disposal procedure, utilising the appropriate delegations and considering any objections. Instructing officers should allow at least 6 weeks between receipt of instructions by Legal Services and the end of the period for objections..

17.3 Legal Procedures

Instructions to advertise a disposal of open space should be sent by the surveyor (via Concerto) to Legal Services (fao. Group Lawyer, - Corporate Group) giving the following information:

- cost code and purchase order number
- plans of the land
- measurements of the land
- a copy of the decision to advertise the land
- name of the person/directorate to receive objections. This should be the instructing officer or other person in the instructing directorate.
- any other relevant information.
- (if applicable)confirmation of whether the purpose of the disposal is to be specified in the notice (and, if it is, the description of the purpose to be included in the notice). The default position will be that the purpose of the disposal will not be specified (as this is not required by law) unless Legal Services are instructed to the contrary.

The instructions will be allocated to an officer in Legal Services who will draft the notice and arrange for it to be placed in a local newspaper for two (2) consecutive weeks.

Notices will follow standard format, the use of the word 'disposal' will be fully explained and (only if the purpose is to be specified in the notice - see above) the purpose of the 'disposal' will be clarified.

Twenty Eight (28) days will be allowed from the date of the first advertisement for objections to be made to the relevant Executive Director and 28 days is generally considered to be a reasonable minimum length of time for objections.

17.4 Communication with Potential Purchasers

In communicating with potential purchasers of open space, care must be taken to ensure that officers and/or members do not give the impression,

either deliberately or inadvertently, that the need to advertise open space and consider objections is merely an administrative process which will be "rubber stamped".

The decision is a public law decision and must be made in accordance with the principles of public law. In particular it must be reasonable to dispose of the land having considered objections and there must be no pre-determination of the decision.

Potential purchasers should understand that the Council is not able to make any commitment to enter into a contract for sale unless and until a proper decision to dispose of the land has been taken.

17.5 Acquisition and Appropriation of Open Space

Acquisitions (including compulsory acquisitions) and appropriations of open space to other purposes must apply the appropriate legal powers and duties for the purposes for which the open space is being acquired.

Legal advice should be sought before any proposed departure from this protocol.

Appendix A – Public Open Space Assessment Matrix

Introduction

In accordance with the Land and Property Protocol, it is important that the surveyor identifies at the earliest possible stage whether the land subject to a proposed disposal could be considered or deemed to be "open space" (often referred to as Public Open Space) as defined within Section 336(1) of the Town and Country Planning Act 1990, more particularly:

"Open space means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground."

If this cannot be determined conclusively from information available to the surveyor then he / she should undertake a site visit and complete the assessment below. This is aimed at assisting the surveyor in determining whether the Council is required to advertise its' intention to dispose of open space to fulfil its' statutory obligation in accordance with the provisions of Section 123 Local Government Act 1972 and / or Section 233 Town and Country Planning Act 1990.

The surveyor is recommended to consider the questions raised in Table 1 and if applicable consider further those issues referred to in Table 2 as part of their assessment.

It is further recommended that the surveyor takes photographs of the site in question.

Table 1 Questions

The following table sets out a series of questions the surveyor should consider as part of his / her initial assessment of the land whilst carrying out a desktop exercise and site visit.

No	Questions	Yes / No	Course of Action
1	Is the land designated within the Local Plan (formerly Local Development Framework / Unitary Development Plan) as recreational open space?	Yes/No	If Yes - advertise
2	Is the land formally laid out and maintained as a garden or landscaped area by the Council's Parks Service?	Yes/No	If Yes - advertise
3	Is the land formally laid out and maintained as a garden or landscaped area by a partner organisation on behalf of the Council?	Yes/No	If Yes - advertise
4	Does a desktop study reveal any evidence that the land was a former burial ground?	Yes/No	If Yes – advertise. NB: If so, also need to consider whether it is consecrated ground.
5	Is the land unfenced and accessible to the public?	Yes/No	If Yes – consider Table 2 issues. If No – note current use of the land, any evidence of site notices or use with permission.

Table 2 Issues

If following completion of the questions within Table 1 the answers are all 'No', then the surveyor is required to consider further the issues in Table 2.

No	Issues to Consider	Comments
1	Degree to which there is evidence of use for recreational purposes by members of the public. For example: dog-walking, trial / mountain biking, kick about area, etc.	
2	Degree to which there is clear evidence of wear or desire lines?	
3	Degree to which any lack of repair or maintenance to the boundary features (i.e. fences, walls, hedges, ditches or bunds) may offer an opportunity to access the land.	

4	Degree to which any access or use of the land might be considered as being unlawful or may constitute trespass?	
5	Degree to which there is evidence that the land is being used with permission?	
6	Degree to which there is evidence of a previous use on the site and when this may have ceased? For example, has the site been temporarily landscaped pending redevelopment e.g. housing clearance programmes – if so how long ago?	

Having completed the above, the surveyor is required to consider / assess the following risks:

Risk Factor	Low		High	
	1	2	3	4
Risk of Challenge i.e. The risk or likelihood of the Council being challenged as a result of a decision to dispose of the land without first undertaking a POS advertising procedure.				
Financial / Reputational Risk The possible effect from a financial / reputational /judicial review perspective of any such challenge.				
Sensitivity How contentious any such disposal may be.				

Scoring

Each of the above risk factors is to be scored between 1 and 4. Total Score for the subject site =

Assessment and Options

Option 1

If the score is greater than 6, the subject land should be regarded as Public Open Space and as such is subject to a statutory advertising procedure to be undertaken in accordance with the Council's Land and Property Protocol.

Option 2

If the score is 6 or less then the subject land should not regarded as Public Open Space and as such is not subject to a statutory advertising procedure.

Decision

Having fully completed this Assessment, the surveyor has considered all pertinent information available to him / her and determined that Option 1 / Option 2 * should be followed in respect of the subject site.

Name of Surveyor: _____

Date: _____

*delete as appropriate

Appendix B – Disposals Protocol / Methods of Sale

a) Introduction

Land and Property transactions undertaken by Local Authorities often attract widespread public interest and consequently the Council needs to have a clear code of practice underpinned by procedural guidelines, which are adhered to by both Members and Officers when dealing with such matters.

This protocol applies to the disposal by way of sale or lease of an interest or interests in land and property including fixtures and fittings incidental thereto which has / have previously been agreed by either Corporate Property Board or via the Officer Scheme of Delegation as being surplus to the Council's operational requirements.

b) Summary of Marketing Methods

The Council will usually use one of the following methods to dispose of land and property:

1. **Private Treaty** - a sale of land negotiated with one or a small number of purchasers. The land may or may not have been marketed as available for sale. A binding legal agreement is created on 'exchange of contracts' between the Council and the purchaser.

2. **Public Auction** - a sale of land by open auction available to anyone. The sale will be advertised in advance. A binding legal agreement is created upon the acceptance of a bid by the auctioneer.

3. **Informal Tender** - a sale of land after a public advertisement that requests informal offers or bids that meet a given specification or set of objectives.

   A binding legal agreement is not created until the exchange of contracts between the authority and the chosen bidder.

4. **Formal Tender** - a sale of land by a process of public advertisement and tenders submitted by a given date in accordance with a strict procedure. A binding legal agreement is created upon the acceptance of a tender by the Council.

5. **Exchange of Land** - a transaction involving the exchange of Council owned land with another land owner.

The land acquired by the Council will meet at least one of its corporate objectives and will be 'equal' in value to the land exchanged or there can be an equality payment made by either party.

6. **Development Partner / Agreement** – a private sector partner who has been established through appropriate means, to jointly deliver and benefit from redevelopment / regeneration schemes.

c) <u>Further Guidance</u>

1. Disposal by Private Treaty

The main characteristics of a sale by private treaty are:

1) The timescales for completion of the transaction are not fixed until exchange of contracts.
2) Offers are made Subject to Contract.
3) Offers are, or may, not all be received at the same.
4) It is usual for the asking price to be quoted.

The steps involved in a private treaty sale will usually include the following:

i) Openly advertising the property for sale through an agency or direct advertising media.
ii) Taking offers from interested parties.
iii) Identifying preferred offers
iv) Negotiation of bids to ensure best value.

The The Council will normally consider the highest bid as representing the best consideration that can be reasonably obtained, subject to ensuring any conditions attached to bids are reflected in the final evaluation.

The process for disposal by private treaty can still include a closing date and be by way of sealed bids if considerable interest is anticipated.

If land is to be sold by private treaty without being marketed, then reasons justifying a private treaty sale must be recorded in writing. In some circumstances, the Council may seek an independent valuation to verify that 'best consideration' is being obtained. An example may include a sale to a special purchaser.

A private treaty sale without the asset being openly marketed may be justified where:

a) land to be disposed of is relatively small in area and an adjoining

or closely located landowner(s) is (are) the only potential or likely purchaser(s).

b) The nature of the Council's land ownership and that of the surrounding land ownership is such that the land must be sold to adjoining or surrounding landowners if best consideration is to be obtained.

c) The Council's corporate objectives and best consideration can best be achieved by a sale to a particular purchaser.

d) The sale is to a non-profit making organisation and the role of that organisation is conducive to the improvement of public services and facilities available within the borough.

e) The purchaser has a particular interest in purchasing the premises or a particular association with the premises and where open marketing of the premises may lead that particular purchaser to reduce the value of their offer for the premises or withdraw their interest in the premises altogether.

f) The purchaser has a particular interest in purchasing the site or a particular association with the site and where in the opinion of the Corporate Property Board / Portfolio Member (Economy and Enterprise) open marketing of the site may cause undue hardship or unrest for that particular purchaser or where the sale of the premises to a party other than that particular individual would substantially and detrimentally affect the normal operation of the business associated with the premises.

g) The disposal is as a result of the Right to Buy scheme.

h) The Crichel Down Rules, which are commended but not binding on a local authority, apply and the Council has decided to sell the land to the person from whom it acquired the land. Specific procedures relate to the disposal of property where Crichel Down Rules apply. It is therefore recommended that legal advice is sought in such circumstances.

A legally binding agreement will not be reached until either contracts for the lease or sale of land are exchanged or a development agreement is signed.

a) Private Treaty – with open marketing

After a reasonable period of exposure to the market, negotiations are carried out with interested parties and a clear highest bidder might emerge.

In the event that two or more interested buyers are identified at similar prices, it is possible to consider moving on to the Informal Tender method below.

b) Private Treaty – sole party without marketing

This is to be considered where there is unlikely to be more than one party interested in the property at an open-market price or there is a special interest purchaser likely to pay above the market price.

This generally arises when an application is received from an adjacent or neighbouring owner(s) to purchase the freehold or leasehold interest of a small or inconsequential area of land in the Council's ownership. If the land is deemed to be surplus to requirements and has no development value or potential demand as an open market opportunity, then negotiations with the adjacent or neighbouring owner should be opened in order to achieve the most advantageous financial or economic outcome, for example if the land is 'landlocked' or is difficult or expensive to maintain.

Special circumstances may arise where an adjacent owner can gain advantage by combining land to give rise to a ransom, betterment or overage position. In such cases, it is necessary to establish both the market value and the value advantage to the proposed purchaser.

2. Disposal by Public Auction

Sale by public auction may be appropriate where there is no obvious potential purchaser and where speed and best price can be publicly demonstrated.

An auction reserve is used to ensure that a property is not sold below an agreed level of value and is usually within 10% of the auctioneer's guide price. The reserve may be adjusted upwards or downwards (but within the 10% threshold) depending on the level of interest following a period of marketing. The auctioneer usually advises on the level of the reserve.

Prior to the sale it will therefore be necessary for the appropriate Officer within the Council's Scheme of Delegation to confirm the auction reserve to be applied. It is recommended that an Officer attends the auction to act on behalf of the Council.

Legal Services are to ensure that an appropriate legal pack including a contract for sale or lease is ready in good time prior to the auction.

The binding contract will be made on the acceptance of the highest bid providing it has reached the reserve price. Contracts for the sale or lease will immediately be signed and exchanged. The contract usually specifies that legal completion is to occur within 20 working days, however the Council may choose to specify a longer period within the contract if necessary, provided that the contract also states that the parties may agree to complete on an earlier date.

3. Disposal by Informal Tender

A disposal by informal tender differs from a formal tender in that neither the Council nor the successful bidder is legally obliged to enter into a contract for the disposal of the land.

The informal process allows the Council to identify a preferred bidder with whom it may then negotiate further detailed terms or proposals for the development of the land concerned.

The Council may, as a part of the disposal process, still request best and final offers for a sale, or informal development proposals for land.
This process is particularly useful for large or complex development or regeneration sites requiring development and where proposals need to be developed in co-operation with a specific or identified bidder in order to meet the Council's corporate objectives and achieve the best consideration that can be reasonably obtained.

Although not a formal tender, after the closing date, all bids should be recorded by the relevant case officer.

A binding legal agreement is not created until the exchange of contracts for sale or lease or the signing of a development agreement.

This method is suited to sales where there are uncertainties, particularly around Planning, and allows for use of conditional contracts, including clauses which can allow for further sums to become payable upon grant of planning permission at different points in the future.

It is therefore essential that officers considering disposal of property by informal or formal tender consult with Planning and Highways to ensure that if the disposal is dependent upon receipt of planning consent then there is reasonable prospect of that consent being approved.

4. Disposal by Formal Tender

A sale of land by formal tender may be appropriate where:

a) The land ownership is not complex.

b) The final form of legal documentation for contracts / transfer are in place together with statutory searches and replies to standard enquiries.
c) There are no uncertainties as to grant of a planning consent.
d) The Council is seeking obligations to be placed on the successful tenderer which are clear and capable of specification in advance.

This method can provide a well organised, transparent way of achieving completion when a timeframe is essential. However, it is often more costly and a much longer lead-in period is required.

Formal tenders will not be appropriate where the land ownership position is complex or the development proposals for the land are insufficiently identified or otherwise incapable of being drawn up into a detailed specification at the pre-tender stage. This is particularly so where a detailed planning permission is required, such as a listed property or property in a Conservation Area. Therefore prior to the commencement of a formal tender process the advice of Planning and Highways should be sought.

With a formal tender process, a legally binding relationship is formed when the Council accepts a tender in writing. It is essential therefore, that every aspect of the disposal is specified within the tender documents. The tender documents should include a contract for sale or lease (which will have a form of transfer or lease annexed to it) which should be completed with the tenderer's details, the tender price, include a deposit cheque to preclude withdrawal of the tender prior to acceptance and be signed by the tenderer. It will be released unconditionally to the Council on submission of the tender.

Sale of land by formal tender will require a detailed specification to be drawn up. This needs to specify the land to be sold, any requirements to be met by the tenderer and any obligations that must be met.

5. Disposal by Exchange of Land

Disposal by exchange of land will be appropriate when it will achieve best consideration for the Council and is advantageous to the Council and other parties to exchange land in their respective ownerships.

The exchange will usually be equal in value. However, an inequality in land value may be compensated for by an equality payment or by other means where appropriate. In such circumstances the Council may seek an independent valuation to verify that 'best consideration' will be obtained.

This method could be advantageous where there is a requirement to deliver corporate or regeneration objectives via the use of Wellbeing powers.

6. Development Partner / Agreement

This is a complex transaction which may be subject to a procurement process that will not usually be appropriate unless circumstances such as those listed below apply:

- The Council wishes to retain a degree of control and influence over the type and pace of development that could not otherwise be achieved through exercise of its statutory powers (such as Planning).

- There is a reasonable expectation of improved future profits that the Council wishes to secure through overage or equity share arrangements.

- It is appropriate for the Council to make land or buildings available to a partner agency (such as a Registered Social Landlord) for the provision of core services at below market value.

- To allow a third party to bring forward a site for development by such as the securing of planning consent without the financial exposure of speculative site acquisition.

Such arrangements are highly complex and expert advice will be obtained to support the Council. Care will be taken to ensure compliance with procurement and / or State Aid Rules. Legal advice should be sought at the outset.

Other than settlement of principal terms covering such as purchase price, site area and the like, additional factors that need to be considered for development partnerships will normally include:

(i) The provision of detailed information and plans of the proposed development.

(ii) The timescale for completion of the development.

(iii) Detailed funding arrangements and confirmation that these are in place.

(iv) Evidence of end user commitment and the opportunity for Council to discuss that commitment directly with the end users in question.

(v) Details of the developer’s financial offer for the property.

(vi) Developer’s track record with similar developments.

(vii) Any partnership record with other local authorities.

(viii) Full details of any proposed joint venture opportunity.

(ix) Details of any conditions precedent to which the proposal is subject.

(x) Any wider / longer term regeneration benefits from the proposal. For example, employment or training opportunities during construction or from the proposed end user.

(xi) Provision of any other off-site benefits or facilities.

(xii) Potential for attraction of shoppers, visitors, users to the borough's facilities.

(xiii) Capacity of the proposal for bringing other sites forward or opening up other development potential.

(xiv) Potential for leverage of private or other public funds and grants.

(xv) Capacity of the proposal to remove or reduce other Council financial liabilities.

(xvi) Satisfaction of the Council's approved regeneration objectives.

d) Exceptions

Other methods of disposal may be used where circumstances warrant. A notable exception to the standard methods of disposal is the Council supporting Government policy in the transfer of maintained schools to Academies who self-determine on conversion.

The Council typically transfer the Council's land under a 125 year lease at a peppercorn rent in accordance with the Academies Act 2010. Whilst a long lease is preferable, the Department for Education (DfE) recognises that at times parties will seek to enter into local agreements.

The expectation is still however that all land and facilities used wholly or mainly for the purpose of the converting school will transfer and be made available for Academy use.

e) Tender Procedure

Officers are to adhere to the following when marketing land or property for sale by tender (whether via Informal Tender or Formal Tender):

a) No tenders shall be invited unless Public Notice has been given in at least one local newspaper giving details of the property and the proposed transaction. It should also invite interested persons to apply to tender within a period of not less than 28 days.

b) Where an agent has been appointed to act on the Council's behalf, their name and address will also be given, and they will be required to acknowledge and comply with this Protocol.

c) Interested parties will be provided with property particulars and full details of the tender process.

d) All tenders must be delivered in the envelope provided or in a sealed envelope addressed to the Director of Legal, bearing the words "Tender for……." the address of the land or property for sale, along with the closing date for submission of offers, but without any name or mark indicating the identity of the sender.

e) All tenders delivered by hand ie to the Civic Centre Main Reception, will be issued with a receipt indicating the land or property in question and the time and date and time of its' delivery. A record is to be maintained.

f) Applicants who wish to make an offer by post must do so by Recorded Delivery.

g) All tenders received are to be passed to Legal Services.

h) Tender envelopes will remain unopened and in the custody of the Legal Services until the appointed time for opening.

i) All tenders will be opened together after the closing date has expired by an Officer nominated by the Director of Legal as well as the Case Officer for the sale land / property.

j) The Director of Legal will maintain a record of all tenders received including any late bids.

k) Tenders will not be accepted where they are not specific, or they are made in reference to another bid, for example "£100 over the highest bid".

l) The Council will make it clear that it does not bind itself to accept the highest tender or indeed, any tender.

m) Any tenders received after the tender closing date or where they contravene any provision of the tendering conditions or instructions will only be opened with the authority of the Director of Legal.

f) Late Bids

Where land is being disposed of by way of formal tender, bids received after the deadline for tenders, will be recorded as late, together with the time and date of receipt. The Director of Legal should decide whether to consider late bids in consultation with the Director of Growth in exceptional circumstances.

g) Online tendering

In consultation with Legal Services tenders can be run online through the Council's e-procurement portal.

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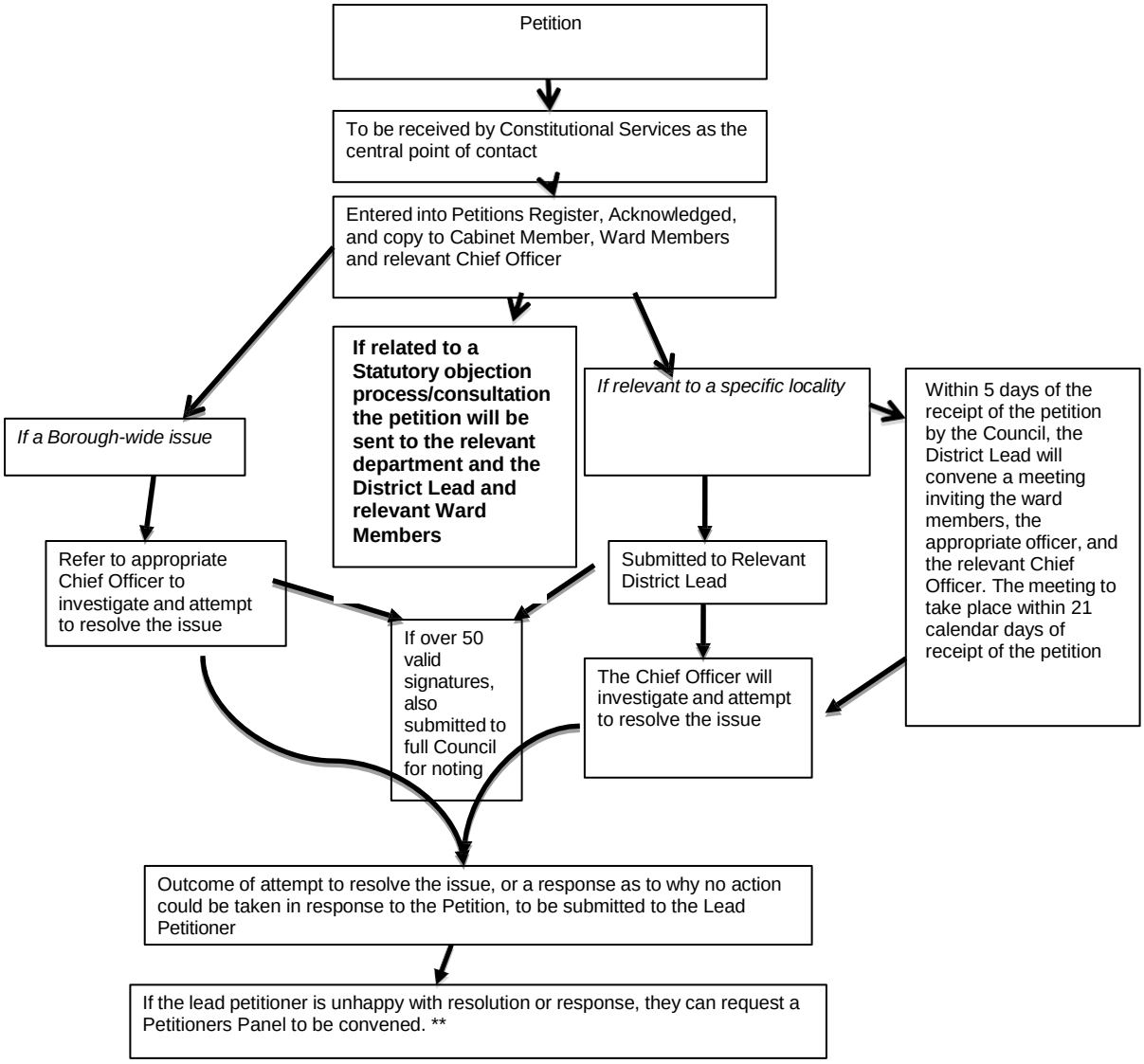
Part 5F
Petitions Protocol

PART 5F – PETITIONS PROTOCOL



* * - In order to resolve / respond appropriately, informal Petitioners Meetings could take place between officers and the Lead Petitioner if needed to clarify issues.
** - Action agreed by a Petitioners Panel is to be processed by the relevant Chief Officer. If it is an executive decision, the decision will be made by Cabinet if it is a Key Decision or if not the relevant Cabinet Member .

Note: Outcome of decisions to be entered into the Council's decision recording system.

Full Council will debate a petition of more than 4,000 valid signatures

No petition will be considered twice in a six month period

Note; This excludes statutory Petitions received.

Part 5G
Substitute Scheme

PART 5G – SUBSTITUTE SCHEME

1. General

1.1 Substitutes will, where permitted, be appointed by Council and will serve for a term of office consistent with the appointments of Elected Members to the Committee itself. Council, however, may at any time revoke the appointment of a substitute member and appoint another Member. Council may at any time vary the number of substitutes to be appointed.

1.2 If a substitute Member is present at a meeting and the Member whom he/she is replacing turns up during the course of the proceedings the original Member will take no part in the proceedings other than that permitted to any other Elected Member.

1.3 Substitutes will speak and vote in their own capacity at meetings and will declare any interests in the matters to be discussed as though they were a Member of that Committee.

1.4 Substitutes for co-opted members of any Committee will not be permitted.

2 Regulatory Committees

2.1 Substitutes will be permitted on Regulatory Committees as follows:

(i) <u>Licensing Committee</u>

No substitutes are permitted on the Licensing Committee. The Licensing Committee will determine a scheme of substitution for the Licensing Panels from within its own membership only.

(ii) <u>Planning Committee</u>

Up to sixteen Members will be appointed as named substitutes in accordance with the political balance of the Committee. Any substitute may be called upon to substitute for a Member of the same political group. The political groups will grade substitutes to be called upon in priority order.

(iii) Commons Registration, Employment, Audit, Appointments, Investigation and Disciplinary Committee and Appeals Committees

Members will be appointed to serve on an ad-hoc basis, to those committees where appointments have not been made. Substitutes will be permitted from amongst the list of Members appointed to serve on these Committees but once the process of hearing an appeal or commencing appointment, investigation or disciplinary procedures has commenced no substitutes will be permitted.

3. Overview and Scrutiny Bodies

3.1 Substitutes are permitted from amongst the named substitutes appointed for each Body. Political Groups may nominate substitutes for each Body up to a maximum of the number of Members that Group has serving on the Body. The named substitutes for each Body may be called upon to substitute for any Member of the same political group. The political group will grade substitutes to be called upon in priority order. For clarity, Political Groups are reminded that Members serving on the Cabinet are not permitted to serve on an Overview and Scrutiny Body.

4. Procedures for calling a substitute

4.1 If a Member is unable to attend any meeting for which a substitute is permitted that Member will notify the Chief Executive, or the Head of Democratic Services, as soon as possible to request that a substitute be appointed.

4.2 A substitute must be appointed prior to the commencement of any meeting. Once a meeting has commenced then a substitute will not be permitted unless a meeting is adjourned. If an adjourned meeting, except in the case of Appeals, Employment, Appointments and Investigation and Disciplinary Committees, is held on a different day to the original meeting then a substitute may be appointed provided that the business before the Body is not prejudiced by a substitute being present.

4.3 On receipt of notification that a substitute is required the Chief Executive will arrange for a substitute for that Member on the basis outlined above and ensure that the substitute Member has access to all necessary papers for the meeting.

4.4 In the event of the notice being received after 12 noon on the day of, but prior to the commencement of, the meeting the Chief Executive will make every effort to arrange for a substitute Member to be present and notify the Chair if it is not possible to arrange for a substitute at such short notice.

4.5 Members may if they wish arrange their own substitute and notify the Chief Executive accordingly. The Chief Executive has delegated notification requirements, in Section 4, to the Head of Democratic Services

5. Exemptions from the Scheme

5.1 Substitutes are not permitted at meetings of the Cabinet or the Standards Committee.

Part 6
Members Allowance Scheme

PART 6 – SCHEME OF MEMBERS ALLOWANCES

1. Introduction

1.1 The Council has adopted this Scheme of Members Allowances.

2. The Basic Allowance

2.1 The basic allowance is paid to all members of the Council and paid to individual members proportionate to the number of days served by that member within a particular year. The Basic Allowance is set out in paragraph 7 below.

2.2 The basic allowance is aligned to the pay award agreed for officers on grade SCP 49 of the National Joint Council for Local Government Services terms and conditions, for one year, upon which time the Independent Remuneration Panel (IRP) would review further.

3. Special Responsibility Allowances (SRA)

3.1 Special responsibility allowances are paid to members where they undertake specific duties and responsibilities. The special responsibility allowances are set out in paragraph 7 below.

3.2 The special responsibility allowance will be proportionate to the number of days where the member undertakes such special responsibilities and indexed at a percentage of the Executive Leader role.

3.3 No member is entitled to more than one SRA where it relates to internal Council business.

3.4 Where there is more than one Main Opposition Group of equal number, the scheme will provide an allowance for each Main Opposition Leader and Deputy Main Opposition Leader.

4. Dependants Carers Allowance

4.1 The Dependants Carers Allowance is paid in respect of expenses necessarily incurred in arranging for the care of children or dependants to allow:-

a) The attendance at a meeting of the Council, Cabinet, Committees or Sub-Committees or of any other body to which the Council makes appointments or nominations or any other committee or sub-committee of such body.

b) The attendance at any other meeting, the holding of which is authorised by the Council, a Committee, a Sub-Committee or a Joint Committee provided that it is a meeting to which at least two political groups have been invited.

c) The attendance at a meeting of any association of authorities of which the Council is a member.

d) The performance of any duty 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 inspection of premises.

e) The carrying out of any other duty approved by the Council or the Chief Executive for the purpose of or in connection with the discharge of the functions of the Council or any of its committees or sub-committees including attendance on a training development course for the purpose of fulfilling the duties of an elected member.

4.2 A dependant is defined as someone who is living with a member and is:-

- A child aged 15 or under.
- An elderly relative requiring full time care.

- A relative with disabilities who requires full time care.

4.3 A member claiming the allowance shall provide medical or social work or other evidence that care is required for the purpose of the audit as requested.

4.4 The allowance shall not be payable in respect of care provided by a member of the Councillor's immediate family or household.

4.5 The carer's allowance will be capped at a maximum of ten hours in any week and the hourly rate will be the National Living Wage hourly rate. Hours may be calculated from the time of leaving home to the time of returning home following attendance on Council business as detailed above.

5. Travel and Subsistence allowances

5.1 Travel and subsistence allowances are paid in respect of expenses necessarily incurred in the exercise of duties and responsibilities shown at paragraph 4.1 above outside of the borough only. The amounts payable are indicated in Paragraph 7 of the scheme. Claims under paragraph 4.1 and 5.1 shall be made in writing to the Chief Executive within three months of the date of which the entitlement to the allowance arises.

6. Disclosure and Barring Service (DBS) Update Service

6.1 The Council requires all Elected Members to have a DBS check. The Members' Allowance Scheme shall provide for the Council to reimburse Councillors for the cost of subscribing to the DBS Update Service. Payment under this paragraph shall be treated as a specific administrative reimbursement under this scheme.

7. Allowance

7.1 A member may, by notice in writing to the Chief Executive, elect to forgo their entitlement or any part of their entitlement to allowances.

8. Members' allowances 2026/2027

Basic Allowance	Index	Amount 2026/2027
All Members of the Council		**£12,467.00**
Special Responsibility Allowance (SRA)	**Index**	**Amount 2026/2027**
Executive Leader	100%	**£37,401.00** **£6,708.52** (for Greater Manchester Combined Authority duties**)**
Deputy Leader	70%	**£26,180.70**
Executive Members	60%	**£22,440.60**
Deputy Executive Member	25%	**£9350.25**
Leader of Main Opposition	50%	**£18,700.50**
Deputy Main Opposition Leader	20%	**£7480.20**
Minority Opposition Leader (provided the group has 6 members)	15%	**£5610.15**
Chairs of:	30%	**£11,220.30**
Licensing		
Planning		
Children and Young People Scrutiny Board		
Adult Social Care and Health Scrutiny Board		
Place, Economic Growth and Environment Scrutiny Board		
Governance, Strategy and Resources Scrutiny Board		
Health and Wellbeing Board		
District Leads: Central, North, East, South and West	20%	**£7480.20**

Appointed Deputy District lead	20% of District Leads SAR	**£1496.04**
Chair of Audit Committee	n/a	**£ 2,473.81**
Chair of Standards Committee	n/a	**£781.26**
Co-opted/Independent Members of Audit and Independent Persons on Standards Committee	n/a	**£1,200.00**
Greater Manchester Transport Committee/Bee Network Committee	n/a	**£4,561.00**
Greater Manchester Chair of Overview and Scrutiny (paid by Greater Manchester Combined Authority)	n/a	**£10,311.00**
Greater Manchester Scrutiny Panel Member (paid by Greater Manchester Combined Authority)	n/a	**£3,437.00**
Greater Manchester Scrutiny Panel substitute members (paid annually by Greater Manchester Combined Authority)	n/a	**£571.00**
Greater Manchester Overview and Scrutiny Committee substitute members' attendance per meeting (paid annually by Greater Manchester Combined Authority)	n/a	**£144.00**
Council representative on the Greater Manchester Pension Fund (GMPF) (paid by GMPF)	n/a	**£1,460.00**
Travel and Subsistence		**Amount 2026/2027**
Refreshment Allowance	n/a	£8 Lunch and £14 Evening meal
Mileage (note the mileage rate change was approved by Council on 16 September 2026 in line with HM Revenue and Customs changes)	n/a	0.55p per mile for first 10,000 miles, outside the borough, per annum and a rate of 0.25p per mile over 10,000 miles, outside the borough
Other Authorised Reimbursement		**Amount 2026/2027**
All Members of the Council Disclosure and Barring (DBS) Update Service		**£16.00,** or the rate charged by the DBS should this change

Civic Allowances		Amount 2026/2027
Mayoral Allowance	n/a	**£ 17,544.16**
Deputy Mayoral Allowance	n/a	**£ 3,446.73**

No member is entitled to more than one SRA where it relates to internal Council business.
Section 3(5) of the Local Government Act 1972 provides for the council to pay the Mayor/Deputy Mayor allowances, but these are not defined as a Special Responsibility Allowance under the Members' Allowances Regulations 2003, but they are included in the published scheme for transparency purposes, and are subject to the indexation applied to the allowance scheme.

Special Responsibility Allowances related to the interim governance mitigations effective from
17 September 2026

Note that no special responsibility allowances will be payable for the following roles during the period the interim governance arrangements are in place:

- Executive Leader
- Deputy Leader
- Executive Members
- Deputy Executive Member
- Leader of Main Opposition
- Deputy Main Opposition Leader
- Minority Opposition Leader
- District Leads: Central, North, East, South and West
- Deputy District Leads

The special responsibility allowances below were agreed by the Council on 16 September following consideration of the recommendations of the Independent Remuneration Panel, related to the interim governance mitigations adopted by the Council pending election of a Council Leader.

Interim Special Responsibility Allowance	**Amount 2026/2027**
Interim Lead Member	£13,464.36
Interim Deputy Lead Member	£5,610.15
Leaders' Consultative Meeting (paid in arrears per full meeting attendance)	£133.58

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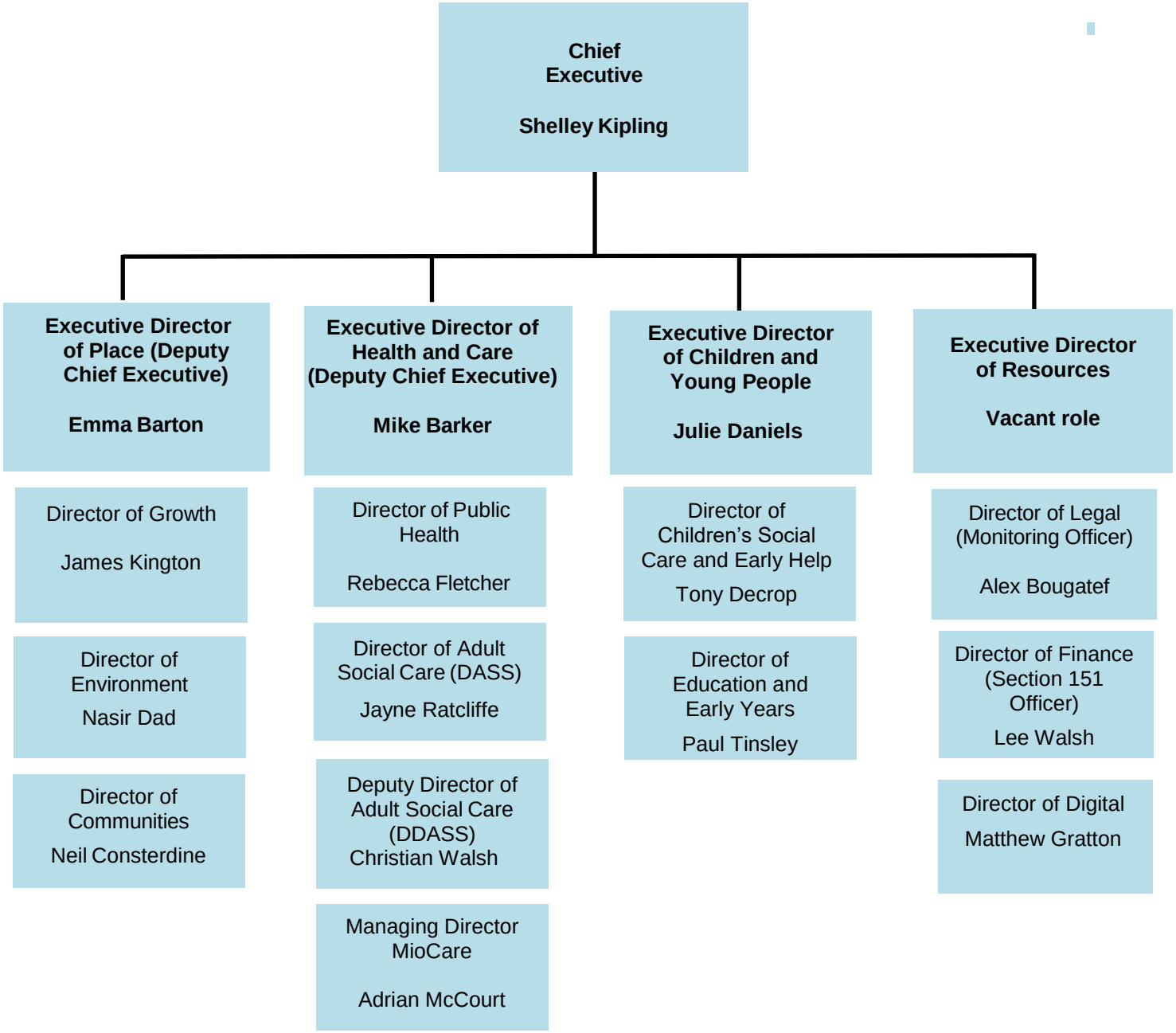
Part 7
Senior Management Structure

Part 7 - Senior Management Structure – COUNCIL STRUCTURE



Part 8
Appendices

Appendix 1 –
Public Access to Information

PART 8 APPENDIX 1 - PUBLIC ACCESS TO INFORMATION

1. Members' Ward Surgeries

Details of the Ward Surgery Programme are published on the Council's website.

2. Members' contact details

Information regarding Members' names, addresses and other contact information and wards represented is available on the Council's website.

3. Corporate Complaints Procedure

This enables members of the public to complain formally about any aspect of the Council's services. All complaints will be investigated and a response provided. Information is also available on the Council's website.

4. The Local Government and Social Care Ombudsman

The "Ombudsman" will consider complaints against a local authority where the complainant alleges that he/she has suffered maladministration or injustice. A complaint can be lodged by a Councillor on the Complainant's behalf or, alternatively, directly by the complainant.

The Ombudsman will normally consider whether the local authority has had an opportunity to consider the complaint under its own in-house complaints procedure. If not, then the Ombudsman will usually ask for the local authority to endeavour to settle the complaint locally in the first instance. If the complainant is dissatisfied with the outcome, the Ombudsman will then decide whether or not to investigate the complaint.

5. Council Meetings – Public Question Time

At each Council, Cabinet or Committee meeting, a period is set aside to facilitate questions from members of the public in relation to those matters which fall within the purview of the Council. For the Council meeting this is 15 minutes, for all other meetings it is 30 minutes. There are a limited number of exceptions in terms of the nature of questions which can be asked (detailed in Council Procedure 10.2 at Part 4 of the Council's Constitution) such as requiring confidential information or not being a matter affecting the Borough.

A question to the Council meeting must be relevant to the functions of the Council and the questions to relevant Committees of the Council must be relevant to the Terms of Reference of those Committees.

If a verbal answer is not given at the meeting, a written copy of the reply will be sent to the person asking the question within five working days of the meeting.

Individuals who wish to ask a question at a Council meeting MUST give notice, in writing/via email/via social media in accordance with the deadlines specified in the Constitution –

- Council Meeting – by 12 noon on the day prior to the meeting;
- all other meetings – 12 noon two working days before the date of the meeting.

6. Access to Agenda Papers and Rights to Attend Meetings

An individual's rights to access Agenda papers, reports open to public inspection, and to attend meetings of the Council are enshrined in statute.

The Access to Information Procedure Rules at Part 4B of the Council's Constitution spell out clearly the principles and legislation underpinning public access rights.

Copies of the Agenda open for public inspection are available at the JR Clynes, Oldham and on the Council's website from five working days preceding the meeting (Access to Information Procedure Rule 4.2 applies).

7. Planning Committee – Planning Applications – Public Access

The Planning Committee, in considering and determining planning applications which fall within their purview, provide an opportunity to members of the public to speak in support of, or in opposition to, a particular planning application.

Similar to the Public Question Time forum, individuals are allowed a maximum of three minutes to speak. Only one person is allowed to speak in support of, or in opposition to, each application.

Requests are dealt with on a "first-come first-served basis". A formal protocol has been drawn up which clearly illustrates the Council's procedure in this regard (and is contained at Part 8 Appendix 2 of this Constitution).

8. Standards

An individual has a right to complain, in the first instance, to the Council's Monitoring Officer concerning the conduct of elected Councillors.

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Appendix 2
Protocol for Planning Committee meetings

1. Referral procedure for planning applications to Planning Committee

1.1 In accordance with The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026, all planning applications would initially be delegated to officers for a decision. The same regulations allow some applications to be referred to the Planning Committee for a decision by agreement of a nominated officer and a nominated member in certain circumstances. Part 3, section 4.2 of the Council's Constitution establishes that the nominated officer will be the Assistant Director for Planning and Development or, in their absence, the Director of Growth. The nominated member will be the Chair of the Planning Committee or, in their absence, the Vice Chair of the Planning Committee.

1.2 As planning applications are validated by the local planning authority, they appear on a weekly list which is distributed to all members and various other organisations and interested parties. Within the weekly list, applications that fall within the list (a) – (i) set out at Part 3, section 4.2 of the Constitution will be highlighted, and the nominated officer will contact the nominated member, making their recommendation as to whether the applications should be referred to the Planning Committee or not. The nominated officer and nominated member will discuss the merits of those highlighted applications and agree whether to refer the applications to the Planning Committee or not.

1.3 In accordance with the regulations, the referral of an application to committee must meet one of the following criteria:

1) the proposal raises one or more significant planning matters having regard to the development plan and any other material considerations;
2) the proposal raises one or more issues of economic, social or environmental significance to the local area; or
3) the application has been made by the authority itself or an officer or member of the authority or an entity owned or controlled (whether wholly or partly) by that authority or any of its members or officers.

1.4 A record will be kept of the cases the nominated officer and nominated member have considered for referral to the Planning Committee, the outcome of their consideration and the reasons for their decision. This will be reported to the Planning Committee on a regular basis and made available on the council's website.

1.5 Under the 2026 Regulations, there is no longer an opportunity for Ward Councillors to request that a specific planning application be referred to Planning Committee. However, Ward Councillors may request to speak on an application that is referred to Planning Committee. They may only do so where the application is within their ward and should contact Constitutional Services once the application is on a published agenda for Planning Committee.

2. Procedure for considering planning applications at Planning Committee

2.1 The Committee agenda will include a report on each application which sets out all material considerations and the Officer's recommendation. Members of the Committee are, therefore, already aware of the relevant issues for any application at a Committee meeting.

2.2 The Planning Officer will introduce the report and a Supplementary Late Information List will report any matters that have arisen since the publication of the report, for example, the receipt of further letters or proposed new / amended conditions.

2.3 The Chair will invite the objector or a representative of the objectors (if any) to speak. Members may ask questions of the objector or representative of the objectors to clarify any points that have been made.

2.4 The Chair will invite the applicant or a representative of the applicant to speak in support of the application and on issues raised by objectors. Members may ask the applicant or a representative of the applicant to clarify the proposals or their response to the objections.

2.5 Ward Councillors not on the Committee may speak on applications affecting their Ward at a meeting of the Planning Committee. Members may ask questions of the Ward Councillors to clarify any comments they have made.

2.6 The Planning or other Officers (as appropriate) will be invited to comment on issues raised by the speakers.

2.7 The Committee will then debate the issues and may ask questions of the Planning and other Officers and make a decision on the application (see below).

2.8 On occasions, an application may be deferred by Committee without debate of the issues, for example because further information is awaited. In such cases, speakers will not be permitted to address the Committee until the application is debated at a future meeting. Speakers will be notified of the date of the meeting which will determine the application. If the Committee defers an application after hearing from a speaker or speakers, for example to carry out a site visit, no speaker, apart from Ward Members, will be allowed to address the Committee at a subsequent meeting considering the application unless the application has been materially altered. Speakers will be notified in writing of the determination of the application.

2.9 Members of the public are not allowed to take part in the debate and may not question Members, Officers or applicants whilst the Committee is determining the application. No documents, photos or other material may be circulated by the applicant, objector or Ward Member (as appropriate) at the Committee meeting.

2.10 Anyone registered to speak on an application arriving after the application has been dealt with will not be allowed to speak on that application.

3. Decisions by Planning Committee

3.1 Having regard to the fact that decisions on planning applications are made in the public arena, Members of Planning Committee should conduct their business in a fair and sensitive manner. The debate on a planning application should be confined to the planning merits , or otherwise, of a development proposal.

3.2 The following principles should be observed when planning applications are determined.

i) a party whip should not be applied on a planning application ;
ii) it is for Members as individuals to balance the proper planning considerations in order to reach their own judgement on a planning proposal on the basis of information before them;
iii) it is wrong for a Member to vote on a planning application without coming to a properly balanced judgement on the basis of proper planning considerations.

3.3 The Council has a duty to process applications without undue delay. Applications should not be deferred as a delaying tactic or to put off making a decision because of the number of objectors at a meeting or because of uncertainty in the face of opposing parties being present at the meeting.

3.4 Decisions taken by Committee should be open and transparent in the sense that any fact or document which Committee takes into account in coming to a decision should be a matter of public record.

4. Consultation with Chair, Vice-Chair and Opposition Spokesperson of Planning Committee

4.1 There will be occasions when the Planning Committee has considered an application but is not able to issue a final decision because all statutory obligations have not been fulfilled. It is anticipated that referrals of this kind will be used infrequently.

4.2 In these cases, and at the Committee's discretion, the decision may be delegated to the Assistant Director for Planning, Transport & Housing Delivery in consultation with the Planning Committee Chair, Vice-Chair and main opposition spokesperson.

5. Planning Committee decision contrary to officer recommendation

5.1 In determining planning applications, Planning Committee is entitled to decide the weight to be attached to the various planning considerations relevant to the application. This could lead to a decision being taken contrary to the recommendation of the officers. In these circumstances, it is essential that the reasons for the decision are clear in the minds of the Committee members, and that they are valid and reasonable planning reasons.

5.2 Where the Committee is considering a motion to make a decision contrary to officer's recommendation (whether for approval or refusal), the reasons for the recommendation shall be made clear at the meeting prior to the Committee voting on the motion and a detailed minute will be made. The officer shall also be given the opportunity to explain any implications of the contrary decision before the vote is taken.

5.3 As part of any motion for refusal of a planning application against officer recommendation, a member of the Committee must be put forward to represent the Council at any subsequent appeal of the decision should the motion be carried and planning permission refused.

6. Public Question Time and Public Participation at Planning Committee

6.1 This paragraph explains how the public may ask questions of the Planning Committee and how applicants for planning permission and other persons who may be affected by a proposed development may speak to the Committee.

6.2 The agenda for each meeting is open for public inspection at the Civic Centre Entrance (Rochdale Road) and at Access Oldham (Cheapside Entrance) (when accessible) and on the Council's website from five working days preceding the meeting.

Public question time

a) The Committee will consider questions relating to general planning issues and procedures but NOT about individual planning applications or enforcement matters.

b) Questions must be submitted in writing to Constitutional Services no later than 12.00 noon, two days preceding the meeting (excluding Saturdays, Sundays and Bank Holidays).

c) The Chair, or some other person at the request of the Chair, shall read out the question.

d) A Member of the Committee may speak to any question, then the Chair of the Committee will give a verbal response to the question(s) at the meeting. The Chair's response will be confirmed in writing within five working days of the meeting.

e) Questions regarding individual matters should be addressed to the Council's Planning Officers in the first instance.

Consideration of planning applications by the Planning Committee – public participation

6.3 The definitive lists of applications for consideration by the Committee will be completed five working days before the meeting. Please contact Constitutional Services to find out if your applications is on the list of applications to be considered. If it is listed, please advise the Constitutional Services Officer if you wish to speak stating whether you support or object to the proposal. Requests to speak must be received no later than 12:00 noon on the day of the meeting.

6.4 Procedure Notes to all Speakers:

a) The number of speakers will be limited to two, namely an objector or a representative of the objectors, and the applicant or a representative of the applicant. A Ward Councillor may also speak on an application in their ward.

b) It is important to inform Constitutional Services as soon as possible if you wish to speak to the Committee since only the first person to do so will normally be invited to speak.

c) Speakers will be allowed to speak for up to 3 minutes to state their case. This time period will be strictly enforced. Speakers should make comments only, and not ask questions of officers or Committee Members.

d) Where there are a number of objectors, a representative should be nominated to speak, failing which the first person to have informed Constitutional Services of a wish to speak, will be invited to speak to the Committee.

e) The public speaking procedure does not allow electronic video presentations or distribution of letters/statements/photographs, etc.to Members of the Planning Committee immediately before or during the meeting.

f) Ward Members will be allowed to speak for up to 5 minutes and should make comments only and not ask questions of officers or Committee Members.

7. Training for Planning Committee Members

7.1 All Members of the Planning Committee shall undertake training on the following matters, on an annual basis before serving on the Committee:

- An Overview of the English Planning system
- The Determination of Planning Applications
- The role of Planning Committee and its members in determining planning applications
- Matters of Predisposition and Predetermination
- Planning Committee procedures

7.2 That annual training will be provided via an in-person training session following the agreement of the membership of Planning Committee at a council meeting and in advance of the first Planning Committee of the municipal year. The date of the training will be provided in the municipal calendar at the annual council meeting and members must ensure they are available to attend that mandatory training before they are proposed as a member of the committee.

7.3 Other voluntary training sessions may from time to time be arranged by Officers to ensure Members are fully briefed and trained on any changes to legislation or procedures, or on particular planning-related matters that officers consider would be beneficial for Committee members.

8. Lobbying, Predetermination and Bias

8.1 It is important that Members deciding planning applications should not put themselves in a position where they could be seen to have made their minds up on a particular planning issue before the Committee (predetermination). Lobbying is a normal and perfectly proper part of the political process, but how members of the Planning Committee respond to such lobbying in relation to a development proposal that is, or is likely to be, subject to a planning application must be considered carefully to avoid predetermination.

8.2 Section 25 of the Localism Act 2011 states that prior indications of a view of a matter does not amount to predetermination in the following situations: "(2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because- (a) the decision-maker 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 and (b) the matter was relevant to the decision." This is the present position in law, so whilst Members are entitled to express a view in relation to an application, they should indicate they still have an open mind in relation to an application until they have had the opportunity to consider a Planning Committee report and heard all of the views on an application at Planning Committee, and that the final decision in relation to the application can only be made by Planning Committee.

8.3 Lobbying of Members for their support in relation to development applications is likely to come from applicants or their agents, or other interested third parties (e.g. landowners) looking for support for a proposed development and / or local residents or other third parties objecting to a proposed development

8.4 To avoid the appearance of bias and predetermination the following is recommended for Planning Committee members:

a) Members should avoid expressing an opinion which may be taken as indicating that they have already made up their minds on an issue before they have the benefit of all the evidence and arguments. This may include comments made during debates in any other Council meetings or committees where future projects are being discussed.

b) Members should never indicate the likely decision on an application by Committee or otherwise committing the Council .

c) Members should restrict themselves to giving procedural advice, including the Council's public consultation arrangements and how representations can be made.

d) Members should refer any approaches to Planning Officers and/or where considered appropriate, and possible, direct the lobbyist to another Member of Council not on Planning Committee.

e) Where a Member receives written representations, documents or other information directly in relation to a planning application under consideration, or a prospective application, a copy of the correspondence, documents or information should be passed to the Planning Service in order that they can be included in the Committee Report. When this is not possible due to timescales, the Member should present the representations, documents and information at the Committee meeting.

f) Members should make it clear that they will only be in a position to make a final decision after having heard all the relevant evidence and arguments at the Committee meeting. The Committee report may well contain issues previously unknown to the Councillors. Also, further aspects affecting the decision can arise during the discussion or through public speaking rights at the meeting, which were not previously evident.

g) Members of the Planning Committee or other decision-making Committee should not organise support for, or opposition to, a planning application, adoption of a policy or any other planning related issue, or seek to lobby other Members or act as advocate.

8.5 Members should report instances of significant or persistent or inappropriate lobbying, particularly from an applicant or their agent, to the Monitoring Officer.

8.6 No Member of Council should state, or give the impression, that he/she is able to secure a particular outcome on a planning application.

8.7 A Member sitting on the Planning Committee who represents a ward affected by a planning proposal may be in a difficult position, particularly if it is a controversial application. If a Ward Member responds to lobbying by going public in support of a particular outcome it will be difficult for that Member to argue convincingly when Committee makes a decision that he/she has carefully weighed up all the evidence and arguments presented.

8.8 Whilst not amounting to an interest, that Member would have prejudiced their position in the decision-making process on that application.

8.9 Any Member of the Planning Committee who responds to lobbying by going public in support of a particular outcome on a planning application prior to a Committee meeting should make an open declaration at the meeting at which the application is considered and not vote on the issue. The Member may seek to address the meeting on the same basis as a non-committee member.

8.10 This could be seen as a restriction on the Councillor's wish, and duty, to represent the views of the electorate. The situation therefore underlines the advice earlier in this section, that Members should await the presentation of all the evidence at a Committee meeting before making a final decision.

9. Discussions/meetings between applicants, the Council and local communities

9.1 Discussions and meetings between potential applicants or their agents and the Council prior to the submission of an application, are encouraged and can be of considerable benefit to both parties. Typically, this is done through the pre- application advice service which the Council's Planning Service offers. Unless the applicant waives their right to confidentiality, these pre-application discussions with officers are held in confidence. This is because part of the purpose of such a service is to enable a prospective purchaser or developer to air ideas and possible proposals in a "safe space", before they settle on a preferred development option to include in a planning application. Keeping such discussions in confidence can be helpful, for example, where a developer has an option on acquiring land, or is in competition to acquire it and disclosure of proposals could prejudice a negotiating position. The role of the Planning Service in these discussions is, without prejudice to any decision of the Council, to explain and interpret the relevant policies which will apply to a proposal.

9.2 Through the pre-application advice process, officers may give an indication of the recommendation which is likely to be made on any subsequent application if the proposals are taken forward, particularly in the light of the provisions of the adopted Development Plan. It will always be made clear to the applicant that this does not bind the Council to making a particular decision, whether the decision on any subsequent planning application is to be made by Planning Committee or will be a delegated officer decision.

9.3 In many cases, and particularly major or complex proposals, developers will seek to share their proposals with the public and the Council before making a planning application. This allows developers to inform the public at the earliest opportunity and undertake meaningful community engagement and to inform and shape development to meet community aspirations and address policy requirements.

9.4 Early discussions with officers and, in appropriate circumstances, with relevant Members about significant future development proposals are therefore encouraged, provided that they do not become, or are seen to be part of the lobbying process. Guidance on these issues has been published by central government and the Local Government Association.

9.5 In order to avoid such problems, any meetings and discussions with potential applicants, or their agents, should take place within the guidelines set out below:

a) It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any opinions expressed are provisions and are not those of the Council. Officers and Members should clearly explain at the outset their role.

b) By the very nature of such discussions, not all relevant information will be to hand, and in the case of pre-application discussions, no formal consultations with interested parties will have taken place.

c) Any advice made by officers should be impartial and based upon the Development Plan and material planning considerations.

d) A written note should be made of any discussion/meeting and placed on the appropriate file. Where a developer prepares a note of the meeting, this should be checked for accuracy and retained on file, and the developer informed in writing of any material inaccuracies.

e) A follow up note or letter should be sent following any potentially contentious meeting or a meeting involving a number of issues or where documentary material has been left with the Council.

f) Care should be taken to ensure that advice is impartial, and seen to be, otherwise a subsequent report could appear to be promoting a particular view. No indication should be given at the pre application stage as to what recommendation will be made when the application is submitted.

g) Under no circumstances should Members arrange to meet applicants/agents or third parties for the purposes of a site inspection.

9.6 Where councillors are involved in meetings with developers the following additional requirements will apply:

a) Community engagement about a specific development proposal is often best undertaken by the prospective developer at the pre-application stage. This will generally be considered when a developer is certain of making an application and wishes to inform the community and canvass opinion about the proposals, so these may be taken into account in the submitted scheme. It is not normally the role of the Council or any councillor to organise this engagement. However, if a councillor did decide to organise such a pre application meeting, the developer should be invited as well as the public and the purpose should be clear that it is to obtain information and views from both sides. In certain cases, it would also be advisable to invite relevant consultees.

b) Members who wish to engage in such preliminary discussions should notify the Planning Service in writing so that their involvement can be recorded on the relevant planning file.

c) It is however important as community representatives, that Members should be able to participate and meaningfully contribute at this stage of the process, when developments are being formulated. Care will however need to be taken so that a participating councillor is not seen to have prejudged the proposal if they are intending to sit on the Planning Committee when the resulting application is submitted for determination. Any consultation process should be transparent and maintain the probity of the process. The role of a councillor who wishes to take part in any future Committee debate on the application is different from that of a community leader, in that it must be more passive and independent, due to the constraints of the planning process, and the need to maintain probity. This role is one of facilitation, of bringing the two sides together to exchange information and views. The councillor could even articulate the views of the community, without being prejudiced, providing it was made clear they did not necessarily hold those views and would only make a judgement as and when the application presented to Committee for consideration, along with all the accompanying Officer advice and information. If, however, the councillor takes a more active role in promoting or opposing a development, an interest must be declared.

d) When councillors take an active role in preliminary discussions/community engagement exercises, it is recommended they provide a written note of this to the Planning Service, in order this is retained on the planning file. This should also be reported to Committee.

e) Where a councillor sitting on the Planning Committee, which would determine any proposal once it is submitted, decides to participate in a community engagement exercise, and has expressed a particular viewpoint, which could be seen as prejudicial or having formed a view on the application, the councillor must declare the interest and leave the room whilst the application is determined, unless they decide to make representations to the Committee under the normal public speaking arrangements. This involvement should also be minuted.

9.7 The same rules apply to meetings and discussions once a planning application has been made.

OVERVIEW AND SCRUTINY BOARDS

PUBLIC QUESTION TIME AND PUBLIC PARTICIPATION

The Agenda for each Overview and Scrutiny Board is open for public inspection at the Civic Centre, Oldham and on the Council's website from five working days preceding the meeting (Access to Information Procedure Rule 4.2 applies).

The public may ask questions of an Overview and Scrutiny Board provided that Notice of the question and/or comment must be delivered to Constitutional Services no later than two days preceding the meeting (excluding Saturdays, Sundays and Bank Holidays).
Delivery includes the submission of questions via electronic media. The notice of the public question/comment must include the questioner's name and full postal address.

Questions must relate to the Board's remit and the Council's Constitution also allows the Monitoring Officer to refuse certain questions. You will be advised if this is the case and the reason for refusal in writing. (Council Procedure Rule 10.2)

Questions which are relevant to the remit of the Committee generally will be considered under the Public Question Time item. Questions which are relevant to a specific item in the agenda will be considered at the start of that item, though such questions will be limited to two per agenda item. Questions considered under any agenda item will be taken in the order of receipt.

General Public Questions

The Chair will advise of the name of a questioner and will either read out the question or ask for the question to be read out to the Committee. A Member of the Committee may speak to any question, then the Chair will give a verbal response on behalf of the Council to the questions at the meeting or, at the discretion of the Chair, respond in writing within five working days of the meeting.

Questions relating to an Item on the Agenda

Questions will be considered at the start of that item, though the number of questions on any item will be limited to two.

The Chair will advise of the name of a questioner and will either read out the question or ask for the question to be read out to the Committee. A Member of the Committee may speak to any question. The Chair of the Committee will give a verbal response on behalf of the Council to the questions at the meeting, either immediately following the question being put or at some other time during consideration of the item. The Chair's response will be confirmed in writing within five working days of the meeting.

The Chair may, at his/her discretion, make prior arrangement for a questioner to participate in further discussions on the item.

Consideration of multiple questions

If more than one question is submitted by the same questioner, the second question shall be taken following questions submitted singly, which shall then be followed by second questions and so on until all questions have been dealt with or the time allowed has expired. Subject to the above, all questions will be taken in order of receipt unless the questioner consents otherwise.

Public Question Time

Public question time, considered in total across both the Public Question Time item and across specific agenda items, will be limited to 15 minutes. The time allowed for responses is limited to a maximum of two minutes each.

HIGHWAY REGULATION COMMITTEE

PUBLIC PARTICIPATION

Consideration of proposed traffic regulation orders by the Highway Regulation Committee – public participation

Anyone who makes representations in respect of a proposed traffic regulation order will be notified in advance by Highways, Traffic Section of the date of the Traffic Regulation Order Panel at which those representations will be considered. Persons who made representations which are to be considered by the Highway Regulation Committee, either for or against a proposed traffic regulation order, may speak in support of their representations at the Committee. Persons who have not made representations in respect of a proposed traffic regulation order will not be permitted to speak at the Committee meeting considering that proposed order.

The agenda for consideration by the Committee will be published on the Council's website five working days before the meeting. Please contact Constitutional Services using the email address or phone number on the agenda if you wish to speak, stating whether your representation is in support of or objection to the proposal. Requests to speak must be received no later than 12:00 noon on the day of the meeting.

The procedure will also be followed in respect of written representations made in respect of proposed public spaces protection orders which are considered by the Highway Regulation Committee .

Procedure Notes to all Speakers

1. The number of speakers will be limited to two, namely a person who made representations against the proposed traffic regulation order or a representative of those who made representations against the proposed order and a person (if any) who made representations in favour of the proposed order or a representative of those who made representations in favour of the proposed order. Ward Councillors may also speak on a proposed traffic regulation order in their ward.
2. It is important to inform Constitutional Services as soon as possible if you wish to speak to the Committee meeting since only the first person to do so will normally be invited to speak.
3. Speakers will be allowed to speak for up to 3 minutes to state their case. This time period will be strictly enforced. Speakers should make comments only in support of the representations they have previously made, and not ask questions of officers or Committee Members.
4. Where there are a number of objectors to the proposed traffic regulation order, a representative should be nominated to speak, failing which the first person to have informed Constitutional Services of a wish to speak, will be invited to speak to the Committee.
5. The public speaking procedure does not allow electronic video presentations or distribution of letters/statements/photographs, etc. to Members of the Committee immediately before or during the meeting.
6. Ward Members will be allowed to speak for up to 5 minutes and should make comments only and not ask questions of officers or Committee Members

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