



Part 3

Responsibility for Functions

1.	Introduction	4
2.	Local Choice Functions	6
3.	The Council Meeting - Functions and Terms of Reference	8
4.	Responsibility for Council Functions – Council Committees and Terms of Reference	10
	4.1 Committees and Memberships	
	4.2 Planning Committee	
	4.3 Licensing Committee	
	4.4 Audit Committee	
	4.5 Traffic Regulation Order Panel	
	4.6 Commons Registration Panel	
	4.7 Charitable Trustee Committee	
	4.8 Employment Committee	
	4.9 Appointment Committee	
	4.10 Investigation and Disciplinary Committee	
	4.11 Standards Committee	
	4.12 Appeals Committee	
	4.13 Independent Panel	
	4.14 Health and Wellbeing Board	
5.	Overview and Scrutiny Committees - Terms of Reference	29
	5.1 Committees and Memberships	
	5.2 Policy Overview and Scrutiny Committee	
	5.3 Performance and Value for Money Overview and Scrutiny Committee	
	5.4 Health Scrutiny Committee	
6.	The Executive	33
	6.1 Executive Functions	
	6.2 Roles and general responsibilities of the Leader of the Council	
	6.3 Roles and general responsibilities of Cabinet Members	
7.	Executive Bodies – Terms of Reference and Delegations	39
	7.1 Cabinet, Cabinet Sub-Committees, Boards etc and Memberships	
	7.2 Cabinet	
	7.3 Bishops Park Trust Cabinet Sub-Committee	
	7.4 Community Asset Transfer Cabinet Sub-Committee	
	7.5 Failsworth Trust Committee Cabinet Sub-Committee	
	7.6 Local Investment Fund Cabinet Sub-Committee	
	7.7 Shareholder Committee	
	7.8 Commissioning Partnership Board	

8.	Scheme of Delegation to Individual Cabinet Members	50
	8.1 General Conditions	
	8.2 Delegations to Individual Cabinet Members	
9.	Scheme of Delegation to Officers	53
	Section 9A – Introduction and Principles	
	9.1 Introduction	
	9.2 Principles	
	Section 9B – General Delegations to Officers	
	9.3 General Delegations	
	Section 9C – Delegations to Specific Officers	
	9.4 Chief Executive	
	9.5 Deputy Chief Executive	
	9.6 Strategic Director Communities and Reform	
	9.7 Strategic Director of Commissioning	
	9.8 Managing Director of Community Services and Adult Social Care	
	9.9 Managing Director of Children and Young People	
	9.10 Director of Legal	
	9.11 Director of Finance	
	9.12 Director of Public Health	
10.	Statutory and Proper Officers	70
11.	Decision Making – Principals and Processes	71
12.	Joint Arrangements	79
13.	The Oldham Partnership	81

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	Deputy Chief Executive/ Strategic Director/ Managing Director for function concerned
2. The determination of an appeal against any decision by or on behalf of the authority.	Council	Appeals Committee
3. Making arrangements for appeals against exclusion of pupils.	Executive	Director of Legal
4. Making arrangements for school admission appeals.	Executive	Director of Legal
5. Making arrangements for appeals by governing bodies.	Executive	Director of Legal
6. Any function relating to contaminated land.	Council	Deputy Chief Executive
7. The discharge of any function relating to the control of pollution or the management of air quality.	Executive	Deputy Chief Executive
8. The service of an abatement notice in respect of a statutory nuisance.	Executive	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	Deputy Chief Executive
10. The inspection of the authority's area to detect statutory nuisance.	Executive	Deputy Chief Executive
11. The investigation of any complaint as to the existence of a statutory nuisance.	Executive	Deputy Chief Executive
12. Obtaining information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.	Council	Deputy Chief Executive
13. Obtaining particulars of persons interested in land under Section 16 of	Council	Deputy Chief Executive/

	the Local Government (Miscellaneous Provisions) Act 1976.		Strategic Director/ Managing Director/ Director of Legal Deputy Chief Executive
14.	Making agreements for the execution of highway works.	Executive	
15.	The appointment of any individual:	Council/ Executive	Council for non-executive appointments, Leader of the Council for executive appointments
	(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		
	(iii) to any Committee or sub-committee of such a body		
16.	The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.	Executive	Chief Executive/ Strategic Director Communities and Reform

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;
- g) Determining Mayoral and Deputy Mayoral, financial loss, and attendance at conferences 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	14 Council Members	4 Members
Licensing Committee	14 Council Members	4 Members
Audit Committee	9 Council Members	3 Members
Traffic Regulation Order Panel	4 Council Members	3 Members
Commons Registration Committee	5 Council Members	3 Members
Charitable Trustee Committee	5 Council Members	3 Members
<i>Employment Committee</i>		
<i>Appointment Committee</i>		
<i>Investigation and Disciplinary Committee</i>		
Standards Committee	5 Council Members, 2 Parish Councillors and 4 Independent Persons	3 Members, one of which must be an Independent Person
Appeals Committee	3 Members	3 Members
Independent Panel	3 Independent Members	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; a CCG representative; a Healthwatch representative; any additional person/body the Board or the Council (subject to consultation with the Board) thinks appropriate.	One Third

NOTE: The Constitutional Working Group has agreed in principle to the establishment of an Employment Committee, an Appointments Committee and an Investigation and Disciplinary Committee and detailed terms of

reference and consequent amendments to the Officer Scheme of Delegation will be submitted to a future meeting of the Council. The current provisions for the Selection Committee and the relevant part(s) of the Officer Scheme of Delegation will continue to apply until such time as Council confirms such amendments.

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

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) in respect of planning applications and related matters (except where the site is specifically allocated for that purpose in the adopted Development Plan, major development (as defined in the Development Management Procedure) (England) Order 2015) as follows -
 - a) applications for minerals or waste development;
 - b) the provision of: i. 20 or more dwellings; or ii. residential development on a site area of 1 hectare or more;
 - c) the provision of a building or buildings where the floor space to be created by the development is 1000 square metres or more;
 - d) retail, commercial, industrial or other development on a site having an area of 1 hectare or more;
2. Applications which require an environmental statement;
3. Applications which are notifiable departures from the Council's Development Plan, other than applications which The Deputy Chief Executive is minded to refuse;
4. Applications to be considered under the referral procedure or referred at the discretion of the Head of Planning and Development Management;
5. Applications 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 Management service area, or by an immediate family member or partner of these persons, which would otherwise be delegated to the Deputy Chief Executive;
6. Applications 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;
7. Consultations from adjoining local authorities, including the Peak District National Park Authority, which fall into the categories 1 (a-d) above, where an objection is raised to the proposed development;
8. The nomination of a Member of the Committee to represent the Council at any subsequent hearing or inquiry where the decision was made contrary to Officer advice.
9. Major applications involving the Council either as applicant or land owner (not including minor developments which accord with planning policy and to which no objection has been made).

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 1972/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 Licences 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, except 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.

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-x) of the Licensing Committee terms of reference;
- b) Gambling Act 2005 - such matters as referred to at 4.3.1(b)(i-1iii, 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-iii, 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.

4.3.7 **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

1972/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.

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 –
- a) be responsible for oversight of the Council's Internal Audit arrangements and will
 - (i) approve the Internal Audit Strategy, 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 anti-fraud and corruption arrangements throughout the authority;
 - (iv) consider the annual report from the Head of Corporate Governance;
 - (v) assist the Council to achieve Value for Money; and
 - (vi) review the effectiveness of the system of Internal Audit on an annual basis as per statutory requirements and the Public Sector Internal Audit Standards.
 - b) be responsible for oversight of the Council's relationship with the External Auditor, including consideration of
 - (i) the External Audit Plan;
 - (ii) the external auditor's annual letter;
 - (iii) relevant reports issued by the External Auditor (with the exception of Public Interest Reports); and
 - (iv) issues arising from the audit of the Annual Statement of Accounts.
 - c) 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.
 - d) 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 Statement on Governance 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 Treasury Management Policy and Procedures and make recommendations to the responsible body; and
- (viii) review Treasury Management reports and make recommendations to the responsible body.

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 throughout the authority; and
- c) review the progress made by the Council to address the risks identified in the published Corporate Risk Register.

4.5 Traffic Regulation Order Panel

4.5.1 The Traffic Regulation Order Panel will undertake the following Council (or 'non-executive') 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
- 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
- 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
- l) Power to make an SSSI diversion order
- m) Power to decline to determine certain applications
- n) Power to apply for variation of order under section 130B Highways Act 1980
- o) Power to extinguish certain public rights of way
- 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
- 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

4.5.2 The Traffic Regulation Order Panel shall also consider written representations in respect of the following matters and make recommendations to the Deputy Chief Executive –

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

4.5.3 Petitioner Panel

The Traffic Regulation Order Panel 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 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

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

The Constitutional Working Group has agreed in principle to the establishment of an Employment Committee, an Appointments Committee and an Investigation and Disciplinary Committee and detailed terms of reference and consequent amendments to the Officer Scheme of Delegation will be submitted to a future meeting of the Council.

The current provisions for the Selection Committee and the relevant part(s) of the Officer Scheme of Delegation will continue to apply until such time as Council confirms such amendments.

4.9 Appointments Committee

The Constitutional Working Group has agreed in principle to the establishment of an Employment Committee, an Appointments Committee and an Investigation and Disciplinary Committee and detailed terms of reference and consequent amendments to the Officer Scheme of Delegation will be submitted to a future meeting of the Council.

The current provisions for the Selection Committee and the relevant part(s) of the Officer Scheme of Delegation will continue to apply until such time as Council confirms such amendments.

4.10 Investigation and Disciplinary Committee

The Constitutional Working Group has agreed in principle to the establishment of an Employment Committee, an Appointments Committee and an Investigation and Disciplinary Committee and detailed terms of reference and consequent amendments to the Officer Scheme of Delegation will be submitted to a future meeting of the Council.

The current provisions for the Selection Committee and the relevant part(s) of the Officer Scheme of Delegation will continue to apply until such time as Council confirms such amendments.

4.11 **Standards Committee**

- 4.11.1 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 on any matter which is referred by an investigator appointed by the Monitoring Officer;
 - g) dealing with any complaints in line with the "Arrangements for dealing with complaints about the Code of Conduct for Members"; 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.

4.12 **Appeals Committee**

4.12.1 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.

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

4.13 Independent Panel

- 4.13.1 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.

4.14 Health and Wellbeing Board

The terms of reference of the Health and Wellbeing Board are subject to consultation with the Board. The revised terms of reference will be submitted to a future meeting of the Council.

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
Policy Overview and Scrutiny Committee	8 Non-Executive Council Members	3 Members
Performance and Value for Money Overview and Scrutiny Committee	8 Non-Executive Council Members	3 Members
Health Scrutiny Committee	8 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.

NOTE: *The Council is asked to approve the establishment of the three Committees and their respective terms of reference, but to defer the date of implementation to be agreed at a future meeting of the Council.*

5.2 Policy Overview and Scrutiny Committee

- a) To lead the development of the overview and scrutiny process in Oldham Metropolitan Borough Council, including responsibility for Member development with regard to overview and scrutiny.
- b) To undertake strategic level scrutiny (having regard to the Prioritisation Framework where relating to significant policy/service change or an area of public or local interest) relating to:
 - Oldham Council;
 - Wholly owned Local Authority Companies;
 - Strategic Partners and Partnerships;
 - Greater Manchester Combined Authority (GMCA), Association of Greater Manchester Authorities (AGMA) and the city region generally;
 - Education (ensuring there is appropriate statutory representation of co-opted members);
 - Community issues which would include crime and disorder, cohesion, housing and environment and regeneration issues etc.; and
 - Area based issues.
- c) To develop proposals for submission to the Cabinet and/or to scrutinize proposals of the Cabinet in respect of Policy Framework items, such items being as described at Article 4.1 to the Council Constitution.
- d) To develop proposals for submission to the Cabinet and/or to scrutinize proposals of the Cabinet in respect of the Budget and related strategies etc., such items being as described at Article 4.1 to the Council Constitution.
- e) To be the designated 'crime and disorder' committee pursuant to s19 of the Police and Crime Act 2006.
- f) To establish Task and Finish groups, Inquiries etc to give in depth consideration to issues within the purview of the Committee.
- g) To consider all Call-Ins (with the exception of called in business from the Commissioning Partnership Board) (In the event a call-in related to an education issue, the statutory co-optees would be invited to participate in that matter at the meeting).
- h) To consider relevant matters referred from Council in accordance with Council Procedure Rule 10.11(g).
- i) To make recommendations to the Cabinet or to any partner organisation on issues scrutinised relevant to those bodies, and where appropriate, direct to Council.

5.3 Performance and Value for Money Overview and Scrutiny Committee

- a) To monitor and hold to account the performance of service delivery within Oldham Council and of strategic partners such as Oldham Community Leisure Limited (OCLL), Oldham Partnership etc with particular reference to the Corporate Plan and all other strategic plans.
- b) In reviewing the performance of Council and other services, to scrutinize plans for improvement where performance is weak and to maintain oversight until performance improves.
- c) To scrutinise the financial performance of the Council against the approved budget and efficiency savings identified therein.
- d) 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.
- e) To establish Task and Finish groups, Inquiries etc to give in depth consideration to issues within the purview of the Committee.
- f) To consider relevant matters referred from Council in accordance with Council Procedure Rule 10.11(g).
- g) To monitor the implementation of scrutiny recommendations that have been accepted by the Cabinet.
- h) To make recommendations to the Cabinet or to any partner organisation on issues scrutinised relevant to those bodies.

5.4 Health Scrutiny Committee

- a) To discharge all health scrutiny functions of the Council under s 21-23 and 26-27 of The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 including:
 - 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.
- b) To scrutinise the work of the Health and Wellbeing Board, including the development, implementation, review and monitoring of the Joint Strategic Needs Assessment and the Health and Wellbeing Strategy.
- c) To scrutinise the development and implementation of any joint arrangements established under a s75 Agreement between the Council and a relevant NHS organisation.
- d) To scrutinise public health services generally.
- e) To scrutinise issues identified as requiring improvement by external assessors in respect of social care matters.
- f) To establish Task and Finish groups, Inquiries etc to give in depth consideration to issues within the purview of the Committee.
- g) To consider called in business arising from the Commissioning Partnership Board.
- h) To consider relevant matters referred from Council in accordance with Council Procedure Rule 10.11(g).
- i) To make recommendations to the Cabinet, Health and Wellbeing Board, the Commissioning Partnership Board or to any partner organisation on issues scrutinised relevant to those bodies.
- j) To participate in/and or review the considerations of any joint committee established to respond to formal consultations by an NHS body on an issue which impacts on the residents of more than on Overview and Scrutiny Committee area.

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; 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.

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

The Leader of the Council (the ‘Leader’) 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.

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 under the Local Government Act 2000 as amended 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 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 2020/21 Cabinet is comprised of 9 Members who exercise the following Portfolios:

<p>Leader of the Council and Cabinet Member for Economy and Skills</p> <ul style="list-style-type: none"> • Councillor Fielding <p>Deputy – Councillor Ali</p>	<ul style="list-style-type: none"> • City region and devolution • External Relations • Policy and Performance • Communications and media • Regeneration and Infrastructure • Enterprise and Business Support • Corporate property and assets • Oldham Town Centre and Markets • Get Oldham Working • Employability • Work and Skills Strategy
<p>Cabinet Member for Children and Young People</p> <ul style="list-style-type: none"> • Councillor Moores <p>Deputy – Councillor Leach</p>	<ul style="list-style-type: none"> • GM Children’s Partnership • GM Children’s Services Review • Adoption and Fostering • Children in care • Child safeguarding • Children’s Health and Wellbeing • Youth Service • Early Years
<p>Cabinet Member for Education</p> <ul style="list-style-type: none"> • Councillor Mushtaq <p>Deputy - Councillor Goodwin</p>	<ul style="list-style-type: none"> • Education and skills commission • Education Alliance • School place planning • Looked after children – educational performance
<p>Cabinet Member for Health and Social Care</p> <ul style="list-style-type: none"> • Councillor Chauhan <p>Deputy -Councillor M Bashforth</p>	<ul style="list-style-type: none"> • Adult Social Services • Adult Safeguarding • Provider Services • Disability Services and adaptations • Family Support • GM Adult Services Review • Health Devolution • Oldham Locality Plan • Health Improvement • Mental Health
<p>Cabinet Member for COVID- 19 Response (and Statutory Deputy Leader)</p> <ul style="list-style-type: none"> • Councillor Shah <p>Deputy - Councillor Ball</p>	<ul style="list-style-type: none"> • Community cohesion • Community Wealth Building • Unemployment • Isolation • Community Engagement • Poverty

<p>Cabinet Member for Neighbourhoods and Culture</p> <ul style="list-style-type: none"> • Councillor Brownridge <p>Deputy – Councillor Ur-Rehman</p>	<ul style="list-style-type: none"> • Transport • Highways • Trading Standards • Registrars and Cemeteries • Car Parking and Enforcement • Street Lighting • Environmental Services • Libraries, Heritage and Local Studies • Culture and Arts • Waste and Recycling • Licensing
<p>Cabinet Member for Housing</p> <ul style="list-style-type: none"> • Councillor Roberts 	<ul style="list-style-type: none"> • Strategic Housing • Housing Quality Enforcement • Planning and Building Control • Homelessness
<p>Cabinet Member for Finance and Green (and Deputy leader)</p> <ul style="list-style-type: none"> • Councillor Jabbar <p>Deputy - Councillor Hulme</p>	<ul style="list-style-type: none"> • Finance • Capital Projects and Investment • ICT and Transactional Services • Internal Business Support Unit • Revenues and Benefits • Customer Services (Including Contact Oldham) • Energy • New Green Deal • Unity Partnership
<p>Cabinet Member for HR and Corporate Reform</p> <ul style="list-style-type: none"> • Councillor Chadderton <p>Deputy – Councillor Williams</p>	<ul style="list-style-type: none"> • HR and Organisational Development • Council Workforce and Work Progression • First Response • District Working • Early Help • Public Service Reform • Community Safety and policing • Youth Justice • Community Justice • Probation Services

7. THE CABINET AND CABINET SUB-COMMITTEES AND BOARDS

7.1 Cabinet and other bodies and Memberships

7.1.1 The Leader of the Council has established the Cabinet and other executive bodies with memberships and quoracy arrangements as follows -

Executive Body	Membership	Quorum
Cabinet	8 Executive Members	Four members
Bishops Park Trust Cabinet Sub-Committee	3 Executive Members	Two members
Community Asset Transfer Cabinet Sub-Committee	3 Executive Members	Two members
Failsworth Trust Committee Cabinet Sub-Committee	3 Executive Members	Two members
Local Improvement Fund Committee Cabinet Sub-Committee	Leader of the Council, Deputy Leader of the Council, and Cabinet Member for Finance and Human Resources	Three members
Shareholder Committee	4 Executive Members	Three members, one of whom must be the Leader or Deputy Leader of the Council
Commissioning Partnership Board	Leader of the Council, Deputy Leader of the Council and Cabinet Member for Social Justice and Communities, Cabinet Member for Children's Services, Cabinet Member for Health and Social Care	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.
- 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 to 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 (1.6 refers);
 - (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) (1.11(e) refers);
 - (iii) To review performance against the approved capital and revenue budgets on a monthly basis (2.15 refers);
 - (iv) To recommend changes to the Revenue Budget arising from the carry forward process (2.26 refers);
 - (v) Acceptance of a proposed third party grant in excess of £250,000 (2.41 refers);
 - (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 (3.2 refers);
- (vii) Approval of procedures for virements (the transfer of resources) between department, earmarked reserves and service budget headings (3.5 refers);
 - (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 (8.3 refers);
 - (ix) The amendment of fees and charges (12.1 refers); and
 - (x) The write-off of individual debts over £5,000 (12.17d refers).
- B. Contract Procedure Rules
- (i) To make decisions leading to contracts for the value of £400,000 or over (unless such decision has been delegated to a Cabinet Sub-Committee or the Commissioning Partnership Board) (14.1 refers);
 - (ii) To make decisions relating to the Modification of a contract for the value of £400,000 or over (unless such decision has been delegated to a Cabinet Sub-Committee or Commissioning Partnership Board) (17.4.1 refers); and
 - (iii) To agree exemptions from Contract Procedure Rules in circumstances where the Deputy Chief Executive or a Strategic Director are unable to act (21.4.1/21.4.4 refers).
- 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.

7.3 **Bishops Park Trust Cabinet Sub-Committee**

The Bishops Park Trust Cabinet Sub-Committee (the “Trust”) will use all reasonable endeavours to further the object of the Trust which is that the land at the former Fox Hall and Wotherhead Hill Farms (comprising circa 46-acres acquired from James Elias Ludlam) be used as an open space or park.

7.4 **Community Asset Transfer Appeals Cabinet Sub-Committee**

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

7.5 **Failsworth Trust Committee Cabinet Sub-Committee**

The Failsworth Trust Committee Cabinet Sub-Committee (“the Trust”) will use all reasonable endeavours to further the object of the Trust which is that the land to the north of the Lancaster Club (comprising 11 $\frac{3}{4}$ acres of land acquired by the former Failsworth Urban District Council on 4 January 1924 from Constance Mary Solly Flood) be used for the purposes of a recreation ground.

7.6 **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.

7.7 The Shareholder Committee Cabinet Sub-Committee

The Shareholder Committee Cabinet Sub-Committee will:

1. Safeguard the Council's investment in the Company 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 (at least annually) 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.

7.8 Commissioning Partnership Board

The Commissioning Partnership Board shall:

- a. Take responsibility for the management of partnership arrangements in accordance with such section 75 agreement or agreements that the Oldham Clinical Commissioning Group (CCG) and the Council may from time to time agree, including monitoring the arrangements and receiving reports and information on the operation of the arrangements;
- b. Together with the Commissioning Committee provide assurance to the Governing Body, CCG members and other relevant parties on delivery of statutory functions and responsibilities exercisable by the CCG.

The Commissioning Partnership Board will:

- a. Support the Health and Wellbeing Board to set the high-level commissioning strategy and health and wellbeing outcomes for the Borough in order to meet assessed population, community and individual need within the financial resources of the pooled funds over which the Commissioning Partnership Board has control.
- b. Make commissioning recommendations for the financial resources not controlled by the Commissioning Partnership Board.
- c. Support the dissolving of traditional boundaries between commissioning and provision of services in Oldham to improve outcomes for Oldham population against the agreed Oldham Cares Outcomes Framework.
- d. Have responsibility for all matters relating to the pooled funds as may be set out in a Section 75 agreement.
- e. Develop, implement and monitor those elements of the Alliance contract for the Oldham Integrated Care Organisation that relate to the provision of services that are subject to the integrated commissioning arrangements.
- f. Make recommendations regarding the other elements of the Alliance contract for the Oldham Integrated Care Organisation (ICO).
- g. Recommend the high level parameters for the Strategic Commissioning Function.
- h. Recommend the high level parameters for the Primary Care and Community and Social Care Clusters within the ICO.
- i. Recommend that appropriate contracting mechanisms are in place within the ICO Alliance and outside of ICO arrangements e.g. specialist hospital services.
- j. Maintain a strategic overview and assurance role on behalf of the Health and Wellbeing Board to ensure implementation and delivery of the agreed high level strategies and outcomes set jointly between Oldham CCG and Oldham Council.
- k. Monitor and review high level outcomes and performance data to ensure that the ICO is achieving the goals established by commissioners for the transformation of health and social care services against the Oldham Cares Outcomes Framework.

8. Objectives

The objectives of the Commissioning Partnership Board are;

- a. To govern the arrangements for integrated commissioning in the Oldham borough providing assurance to NHS Oldham CCG and Oldham MBC that their statutory and mandatory responsibilities and strategic objectives are being met and that their combined resources are being utilised to best effect.
- b. To provide assurance to Oldham Health and Wellbeing Board, NHS Oldham CCG and Oldham MBC for the achievement of the agreed outcomes, commissioning strategies and plans within the available financial envelope.
- c. To prepare an annual 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 in order to reflect best practice and value for money.
- d. Within the integrated commissioning strategy, describe how the outcomes and objectives set out in the Section 75 Agreement and the high level strategic goals and outcomes of NHS Oldham CCG and Oldham MBC will be achieved.
- e. To commit resource at high level within the pooled fund(s) to achieve the objectives of the integrated commissioning strategy through the Oldham Cares system structure.
- f. To develop a joint financial plan to underpin the overall commissioning strategy and providing direction in relation to investments and savings to be made jointly by the Council and CCG.
- g. To oversee the implementation of the integrated commissioning strategy.
- h. To set the high level quality standards for, and monitor and review the outcomes and performance for commissioned services within the s.75 agreement, identifying areas of good practice and taking action where outcomes and performance fall short of requirements.
- i. To ensure that the prescribed functions of Oldham Council and Oldham NHS CCG are properly and effectively discharged through the pooled funds and the strategic commissioning arrangements as appropriate.
- j. To ensure the engagement of stakeholder groups - including users, patients, carers, providers and community organisations - in the commissioning cycle and the co-design of commissioned services and the formulation of strategy as appropriate.
- k. To provide assurance to the Health and Wellbeing Board, CCG Governing Body, Oldham Council Cabinet and the Council's Overview and Scrutiny Committees of the quality and safety of commissioned services within the Section 75 agreement, of the proper and effective use of resources in the pooled fund and of the achievement of agreed strategy and outcomes.
- l. To conduct all business in accordance with the provisions of the Section 75 Agreement including the standards on partnership behaviours and the code of conduct on conflicts of interest.

- m. To be fully aware of the Greater Manchester integrated commissioning arrangements as they develop in the context of the Greater Manchester Devolution Agreement and ensure full alignment between the arrangements in the Oldham borough, the North East sector, and the city region.
- n. To identify, record, mitigate and manage all risks associated with strategic integrated commissioning, including the maintenance of a risk register which will be included on the risk registers of both NHS Oldham CCG and Oldham MBC.
- o. To review regular high-level performance and financial monitoring reports relating to strategic integrated commissioning and the pooled fund 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.
- p. To promote improvement and innovation and demonstrate leadership in pursuing the objectives and upholding the principles underpinning the ways of working in the newly established partnership.

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 All Key Decisions made by a Cabinet Member in consultation with the Deputy Chief Executive or relevant Strategic Director or Managing Director will be made available as soon as is reasonably practicable.
- 8.1.7 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 key decisions, in consultation with the Deputy Chief Executive or a Strategic Director or a Managing 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.
- b) Virement – in accordance with Financial Procedure Rule 3.5 -
 - (i) To approve, in consultation with the Deputy Chief Executive or relevant Strategic 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 relevant Strategic 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 relevant Strategic 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 relevant Strategic 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 £400,000 in consultation with the Deputy Chief Executive or Strategic Director of Reform, 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 (Financial Procedure Rule 2.33 refers)
- 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 (Financial Procedure Rule 12.17 refers).

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) 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 Deputy Chief Executive, a Strategic Director and/or other specified senior Officer.

2. Principles of Officer delegated decision making

- 2.1 The fact that a function has been delegated to the Chief Executive, the Deputy Chief Executive, a Strategic Director, a Managing Director or the Directors of 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. Exceptions to this are
 - if the law or the Constitution specifically requires a particular Officer to take the decision; or
 - key decisions must be taken personally by the Chief Officer they are delegated to.
- 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 remains responsible for any decision taken pursuant to such arrangements.

- 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 Deputy Chief Executive, a Strategic Director, a Managing Director or the Directors of 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, as appropriate. This must include 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 Deputy Chief Executive, a Strategic Director, a Managing Director 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 and, in particular, the following functions:

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 Deputy Chief Executive, Strategic Directors, Service Managing Directors, Directors and Heads of Service. (1.16-19);
- Deputy Chief Executive, Strategic Directors, Managing Directors, Directors and Heads of Service to draft service plans and budgets (2.12);
- Deputy Chief Executive, Strategic Directors, Managing Directors, Directors and Heads of Service to control income and expenditure (2.17);
- Deputy Chief Executive, Strategic Directors, Managing Directors and Directors to managing budgets, delegate authority and review budgets (2.19 – 21);
- Deputy Chief Executive, Strategic Directors, Managing Directors and Directors to establish sound arrangements for their operations and achieving financial performance targets (2.34);
- Deputy Chief Executive, Strategic Directors, Managing Directors and Directors to assist in the closure of their Directorate accounts (2.37);
- Deputy Chief Executive, Strategic Directors, Managing Directors 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);
- 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);
- 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);
- Deputy Chief Executive, Strategic Directors, Managing Directors 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);
- Deputy Chief Executive, Strategic Directors, Managing Directors and Directors must respond to Internal Audit and Counter fraud requests for progress and status updates (6.6);

- Chief Executive, Deputy Chief Executive, Strategic Directors, Managing Directors and Directors 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);
- 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);
- Heads of Service responsibilities concerning risk and insurance, including in the event of an insurance claim or occurrence (7.2-4);
- Head 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);
- Heads of Service responsibilities for recording and checking of stock (8.5-7);
- Heads of Service responsibilities for the maintenance of inventories (8.8-12);
- Heads of Service responsibilities for advising Director of Finance of matters concerning the Asset Register (8.14-16);
- Heads of Service responsibilities ensuring that all staff are aware of and comply with responsibilities under the law and Council procedures concerning the security of information (9.4);
- Heads of Service responsibilities concerning customer/client property and lost property (9.5-7);
- Heads of Service responsibilities relating to imprest accounts (11.7-10);
- 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);
- Deputy Chief Executive, Strategic Directors, Managing Directors 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 £60 up to £2,500 by the Head of Service
 - Individual debts up to £5,000 by the Director of Finance. (12.17);
- Heads of Service to identify Officers authorised to raise requisitions etc to set limits and to notify the Director of Finance (13.9);
- Deputy Chief Executive, Strategic Directors, Managing Directors and Directors responsible for ensuring payment of undisputed invoices within 30 days from receipt of invoice (13.18); 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, and to act in accordance with the following matters specifically delegated therein –

- Deputy Chief Executive or Strategic Directors, Managing Directors to be satisfied as to adequate budget provision and necessary consents before entering into contracts (1.6);
- Deputy Chief Executive or Strategic Directors, Managing Directors to ensure that the Directors of Legal and Finance are consulted throughout the procurement process where contract is a key decision (1.7);
- Deputy Chief Executive or Strategic Directors, Managing Directors, in consult Director of Legal, to determine exemptions from Contract Procedure Rules (1.10.2, 21);
- Deputy Chief Executive or Strategic Directors, Managing Directors to take immediate action in the event of a failure to comply with Contract Procedure Rules and inform and consult the Director of Legal (1.12);
- Deputy Chief Executive, Strategic Directors and Managing Directors to comply with delegations relating to Award of Contracts (14); and
- Deputy Chief Executive or Strategic Directors, Managing Directors to comply with requirements relating to claims arising from contracts and provide mandatory information for the Contracts Register (19).

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 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

1.1.4 Personnel

The Constitutional Working Group has agreed in principle to the establishment of an Employment Committee, an Appointments Committee and an Investigation and Disciplinary Committee and detailed terms of reference and consequent amendments to the Officer Scheme of Delegation will be submitted to a future meeting of the Council.

The current provisions of the Officer Scheme of Delegation will continue to apply until such time as Council confirms amendment to the Scheme.

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) Regulations 2000 (as amended) not otherwise remitted to the Council or a Council Committee or Sub-Committee or to the Leader of the Council.
3. 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.
4. The Chief Executive is authorised to take any emergency decisions in respect of the Council's executive functions (in consultation with the Leader of the Council or, in absence of the Leader, the Deputy Leader of the Council) which cannot be delayed until the next Cabinet Meeting.
5. 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.
6. 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.

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 Deputy Chief Executive is authorised to discharge any functions of the Executive in relation to:-

Director of Economy

- Physical Regeneration Development
- Asset Management (client)
- Corporate Landlord (including Facilities Management)
- Car Parking
- Enterprise Development and Inward Investment including Tourism
- Economic Strategy
- Business Engagement
- Town Centre
- Strategic Housing Services and Homelessness
- Strategic Planning and Infrastructure

Director of Environmental Management

- Operational Services
- Environmental Management
- Street Scene and Parks
- Strategic Transportation, Highway (Unity client) Street Lighting
- Building Control
- Public Protection including Pest Control, First Response

Chief Operating Officer, Unity Partnership

2. The Deputy Chief Executive will undertake such Council (or 'non-executive') functions as defined in the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) ('the Regulations') as are pertinent to the role of the Deputy Chief Executive 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 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 3 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.

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

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) Order 1995).
- f. Authority to issue and serve 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 Director of Legal Services 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 Director of Legal Services 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 instruction the Solicitor to the Council 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 Director of Legal Services 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 Director of Legal Services 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 The Deputy Chief Executive People and Place and the Director of Legal Services.
 - 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 Deputy Chief Executive is authorised to undertake all Council (or 'non-executive') functions as defined in Section B Schedule 1 of the Regulations 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 - the Deputy Chief Executive is authorised to undertake all Council (or 'non-executive') functions as defined in Section I, Part 1 Schedule 1 of the Regulations with the exception of those matters reserved by the Council to the Traffic Regulation Order Panel.

Strategic Director Communities and Reform

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 Strategic Director Communities and Reform is authorised to discharge any functions of the Executive in relation to:-
 - the Director of Public Health, including leisure, libraries and arts (though not to the extent of the statutory functions of the Director of Public Health);
 - the Director of Workforce and Organisational Design
 - Thriving Communities
 - Reform
 - Communications and Research
 - Strategy and Performance
 - Transformation
 - Community Safety and Community Cohesion
3. The Strategic Director Communities and Reform will undertake such Council (or 'non-executive') functions as defined in the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) as are pertinent to the role of the Strategic Director Communities and Reform and have not otherwise been remitted to the Council, a Council Committee or Sub-Committee or other Officer.

Strategic Director of Commissioning

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 Strategic Director of Commissioning is authorised to discharge any functions of the Executive in relation to:-
 - Director of Finance (to the extent as permitted by the Council's Constitution and by corporate policies and procedures generally, but not to extend to the statutory functions of the Chief Finance Officer)
 - Commissioning
 - Procurement
2. The Strategic Director is also the Chief Operating Officer of the Oldham Clinical Commissioning Group.

Managing Director Community Services and Adult Social Care

1. The Managing Director Community Services and Adult Social Care 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 Managing Director Community Services and Adult Social Care is authorised to discharge any functions of the Executive in relation to:-
 - Deputy Managing Director Health and Adult Social Care Community Services
 - Adult Social Care (DASS)
 - All Age Disability
 - Client for OCS
 - Preventive Services Care Management
 - Miocare
3. The Managing Director Community Services and Adult Social Care will undertake such Council (or 'non-executive') functions as defined in the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) as are pertinent to the role of the Managing Director Community Services and Adult Social Care and have not otherwise been remitted to the Council, a Council Committee or Sub-Committee or other Officer.

Managing Director of Children and Young People

1. The Managing Director of Children and Young People 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:-
 - Director of Children's Social Care
 - All Age Safeguarding
 - Looked After Children
 - Adoption and Fostering
 - Child Protection
 - Community Safety
 - Community Cohesion
 - Early Help
 - Targeted Youth
 - Family Services (Caf)
 - Mash
 - Director of Education, Skills and Early Years
 - School Improvement
 - School Places Planning
 - Early Years
 - Education Strategy including Attainment
 - Skills and Employment / GOW
 - Community/Adult Learning
3. The Managing Director of Children and Young People will undertake such Council (or 'non-executive') functions as defined in the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) as are pertinent to the role of the Managing Director of Children and Young People and have not otherwise been remitted to the Council, a Council Committee or Sub-Committee or other Officer.

Director of Legal

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 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 Committee in pursuance of their statutory powers; or
 - an Officer discharging any delegated Council or executive function;in relation to: -
 - a) the making or issuing of orders and notices;
 - b) the commencement, defence, withdrawal or settlement of legal or other proceedings up to a figure of £250k;
 - c) the authorisation of Council employees to conduct legal matters in court and other matters relating to the courts and legal proceedings;
 - d) contractual elements of procurement;
 - e) electoral matters;
 - f) land charges;
 - g) commons registration;
 - h) the recording of decisions of Council, the Executive and all relevant committees;
 - i) Registration Service;
 - j) Civic and Political Support;
 - k) taking any action remitted to the Director of Legal under corporate policies and procedures
3. Further to Paragraph 2 above, the Director of Legal will undertake such Council (or 'non-executive') functions as defined in the Local Authorities (Functions and Responsibilities) 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.
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.

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.
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 function;in relation to: -
 - a) the administration of benefits
 - b) the collection of revenue (including debt recovery)
 - c) the administration of Council tax and national non-domestic rates including Discretionary and Hardship rate relief up to and including £50,000, in consultation with the Leader and the relevant Executive Member.
 - d) internal audit
 - e) pensions
 - f) creditor payments
 - g) accountancy
 - h) the Council's insurance arrangements and risk management
 - i) information technology
 - j) the management of land (including valuation, acquisition, appropriation, disposal and other dealings with land or any interest in land) subject to the limits reserved to the Executive
 - k) the writing off of debts up to £5,000 and to review in detail all debtors to support the closure of final accounts
 - l) the administration of payroll function
 - m) to decide on the appropriate arrangements for Performance Bonding for all contracts in excess of £75,000 contract sum
 - n) to take any action remitted to the Director of Finance under corporate policies and procedures.
3. 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
 - Health Protection
 - Commissioning Healthcare Services
 - Reducing Health Inequalities
 - Culture and Heritage
 - Leisure
 - Arts and Libraries
3. The Director of Public Health will undertake such Council (or 'non-executive') functions as defined in the Local Authorities (Functions and Responsibilities) 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

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

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	Managing Director of Children and Young People
Director of Adult Social Services	Section 6 of the Local Authority Social Services Act 1970	Managing Director Community Services and Adult Social Care
Director of Public Health	s73A of the National Health Service Act 2006	Director of Public Health

Certain legislation indicates that the 'Proper Officer' shall undertake or be responsible for undertaking certain actions specified within that legislation. 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 the arrangements in this Part of the Council's Constitution, or to delegate to another Officer of the Council to act as 'Proper Officer' in any particular circumstance.

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 Deputy Chief Executive, a Strategic Director, a Managing Director 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.

Before the Chief Officer, or other Officer so authorised, exercise any delegated executive power to make a Key Decision, they must consult with the relevant Cabinet Member.

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. Before a Cabinet Member exercises delegated power to make a Key Decision, they must consult

- with the relevant Chief Officers as appropriate to the decision proposed to be taken; and
- with the Leader of the Council/Chair of the Cabinet who may direct that the delegated authority should not be exercised and that the matter should be referred to the Cabinet.

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 a prejudicial interest 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 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

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.

Greater Manchester Transport Committee

The 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>

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

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%200Standing%20Orders%20December%202019.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 Committee for the Pennine Acute Hospitals NHS Trust**
Terms of Reference available here - <https://www.bury.gov.uk/CHttpHandler.ashx?id=14677andp=0>
- **Joint Committee for the Pennine Care NHS Trust**
Terms of Reference available here - <https://www.bury.gov.uk/CHttpHandler.ashx?id=2199andp=0>

13. THE OLDHAM PARTNERSHIP

Oldham Leadership Board

The Oldham Leadership Board is a partnership of public sector Chief Executives, key elected members, business, community and voluntary sector leaders. It is more than a partnership of organisations but is a body which is responsible for leading Oldham, not just at the Borough level but at Greater Manchester level and beyond. The Board also provides Oldham solutions with an emphasis on leadership, collaboration and joint investment.

The Oldham model has three core components -

- Inclusive Economy;
- Thriving Communities; and
- Co-operative Services.

These core components are wrapped up in a constant commitment to

- Public Sector Reform; and
- Empowering People and Communities.

The Partnership's commitment to these five themes will help drive the improvement in the outcomes for both Oldham's population, and Oldham as a place.

The Board has the ability to hold all parts of the Oldham Partnership to account for the delivery of the Oldham Model.

The three partnership boards will all formally report into the Oldham Leadership Board and drive the delivery of the Oldham Model outlined above. The three partnership boards are

- Co-operatives and Neighbourhoods;
- Health and Wellbeing Board; and
- Economy and Skills.

These Boards are further supported by a range of other partnerships and networks of the Oldham Partnership. These include, for example, the Community Safety and Cohesion Partnership, the Oldham Housing Investment Partnership, the Adult and Children's Safeguarding Boards and the Oldham Community, Voluntary and Faith Partnership.

Delivering Oldham and Greater Manchester Strategy ambitions

The Oldham Leadership Board (with the support of the three partnership boards and wider partners) 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 Leadership Board 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 Leadership Board 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. These include -

- Health and Social Care integration and transformation through Oldham Cares (as outlined in the Oldham Locality Plan for Health and Social Care Devolution);
- Early intervention and prevention across public services;
- The implementation of local service transformation and place-based delivery (as outlined in the Thriving Communities platform of work for Oldham); and
- The Town Centre Masterplan

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
- Chair of the Co-operatives and Neighbourhoods Commissioning Cluster
- Chair of the Economy and Skills Commissioning Cluster
- Deputy Chief Executive and Strategic Director Communities and Reform, 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)
- Oldham Cares

- Pennine Acute
- Oldham Community Leisure Trust
- First Choice Homes
- Greater Manchester Fire and Rescue Authority
- Greater Manchester Probation/Community Rehabilitation Company

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