

31st July 2026

REPORT TO COUNCIL



STATUTORY REPORT OF THE MONITORING OFFICER UNDER SECTION 5 OF THE LOCAL GOVERNMENT AND HOUSING ACT 1989 - FAILURE TO APPOINT A COUNCIL LEADER AND FORM AN ADMINISTRATION

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1. PURPOSE OF REPORT

- 1.1 This report is prepared pursuant to Section 5 of the Local Government and Housing Act 1989. It addresses the continuing inability of Oldham Metropolitan Borough Council to appoint a Leader and establish a functioning administration following meetings held on 20 May 2026, 15 June 2026, 1 July 2026 and 15 July 2026 and to highlight to members that this outcome is unlawful.
- 1.2 It is intended that this report and its contents be considered at a Full Council meeting within 21 days with a view to appointing a Leader of the Council.

2. RECOMMENDATIONS

- 2.1 Council is recommended to receive this report, note the Monitoring Officer's opinion, acknowledge the continuing governance failure arising from the inability to appoint a Leader, take all reasonable steps to secure the appointment of a Leader and administration.

3. EXECUTIVE SUMMARY

- 3.1 Oldham Council operates an Executive Leader and Cabinet model of governance. The Constitution places responsibility upon Full Council to elect a Leader. The Leader is responsible for delegations to officers, appointing Cabinet Members, allocating portfolios and providing strategic leadership. The leader is responsible for decision making on all decisions relating to executive functions and can delegate responsibility for such decisions. Since the Annual Meeting on the 20th of May 2026 the Council has been unable to appoint a Leader despite repeated attempts.

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- 3.2 This report considers whether that continuing omission has now reached a point where it affects the Council's ability to operate the governance framework adopted by the authority. The Monitoring Officer's conclusion is that the issue has progressed beyond ordinary political disagreement and now raises questions concerning constitutional compliance, effectiveness of governance, accountability, executive decision making and public confidence.

4. STATUTORY DUTY OF THE MONITORING OFFICER

- 4.1 Section 5 of the Local Government and Housing Act 1989 imposes a personal duty upon the Monitoring Officer to prepare a report where it appears that a proposal, decision or omission has given rise, or is likely to give rise, to a contravention of law or rule of law. The purpose of the provision is preventative. It enables concerns relating to legality and governance to be brought formally before elected members before the position deteriorates further.
- 4.2 This report concerns an omission rather than a decision. The omission is the repeated failure of Council to elect a Leader despite a number of opportunities to do so and the breach of the statutory duties of the Council, namely the Local Government Act 2000 and the Children Act 2004.

5. CHRONOLOGY

- 5.1 Following the elections held on 7 May 2026 and the resignation of the previous administration, Oldham Metropolitan Borough Council has been without a Council Leader. On 20 May 2026 the Annual Meeting was held. Council did not elect a new Leader and the meeting was adjourned. The meeting was reconvened on 15 June 2026, then again on 1 July 2026, and the matter was brought forward to the ordinary meeting on 15 July 2026. At each stage the Council remained unable to establish a leadership arrangement capable of commanding sufficient support of Councillors. The result is that the authority has remained without a Council Leader and administration for a prolonged period.
- 5.2 There has also been Local Government Association, (LGA) peer support offered to each group leader and there has been significant time engaged by the Chief Executive in liaising with groups and group leaders aiding negotiations. This chronology is significant because it demonstrates that the issue is continuing and not a short-term administrative delay.

6. CONSTITUTIONAL FRAMEWORK

- 6.1 The Law and the Constitution identifies the election of the Leader as a function of Full Council and provides that the authority operates through an Executive Leader model and it is not legally possible to adopt a different model. Under that model the Leader is the constitutional focal point for executive governance. The Leader appoints Cabinet Members, delegates executive functions to officers, determines portfolio responsibilities and provides political leadership. All decisions in respect of executive functions are the responsibility of the Leader. The Leader may delegate responsibility for making decisions on executive functions to certain bodies or individuals but that is a matter for the Leader as a matter of law. The legal and governance framework therefore assumes the existence of a Leader. While the Constitution contains mechanisms for continuity of service delivery, it was not

designed on the assumption that the office of Leader would remain vacant for an extended period following the Annual Meeting.

7. LOCAL GOVERNMENT ACT 2000 AND EXECUTIVE ARRANGEMENTS

- 7.1 The Local Government Act 2000 establishes the legislative framework through which authorities operate executive governance arrangements. Oldham has adopted a Leader and Cabinet form of executive governance and cannot change this due to recent legislative changes: (The English Devolution and Community Empowerment Act 2026) came in at the end of April. This introduced a change to the Local Government Act 2000 so that Councils could not move away from a Leader and Cabinet model. Statutory arrangements are reflected and implemented through the Constitution. The constitutional role of the Leader is therefore not merely local custom; it forms part of the legal and governance requirement through which the executive model is given effect. The inability to elect a Leader therefore has wider implications than the absence of a single office holder. It raises questions about the practical operation of the executive structure itself.
- 7.2 The Council is currently having to rely on emergency delegations to the Chief Executive to make all of its executive decisions. Officer delegations are designed to only be an emergency bridge, not a legally sustainable substitute for executive democracy.

8. ANALYSIS OF THE CURRENT POSITION

- 8.1 Political disagreement is not in itself unusual or unlawful. Local democracy depends upon debate, disagreement and negotiation between political groups. However, a distinction must be drawn between disagreement and prolonged institutional paralysis. When disagreement prevents the authority from discharging constitutional responsibilities over a sustained period, concerns arise regarding governance. The issue is not whether members are entitled to vote according to conscience or political views. The issue is whether repeated failures to appoint a Leader prevent the authority from operating the governance framework it has chosen to adopt. In the Monitoring Officer's view that question must now be considered seriously.

9. GOVERNANCE CONSEQUENCES

- 9.1 The continuing absence of a Leader has significant consequences. It affects Cabinet formation, portfolio allocation, strategic leadership, accountability and external confidence in governance arrangements. It may also affect the ability of the authority to demonstrate clear political direction. Whilst officers continue to discharge their responsibilities professionally, officer continuity is not a substitute for political governance. A prolonged absence of political leadership creates uncertainty both internally and externally.

10. CHILDRENS SERVICES AND CORPORATE GOVERNANCE

- 10.1 Particular consideration should be given to services where political leadership and accountability are vital features of governance. Under Section 19 of the Children Act 2004, the Council is under a mandatory duty to designate a Lead Member for Children's services. The ongoing vacancy prevents this statutory appointment,

meaning the Council is acting unlawfully and this report recognises the importance of restoring settled political leadership as soon as possible.

- 10.2 The ongoing absence of a lead member in this role also undermines the important Governance requirement that this role carries. The council does not have a political champion for corporate parenting and there is a lack of political leadership on partnership bodies.

11. RISK ASSESSMENT

- 11.1 The Council faces governance risk, reputational risk, operational risk, legal risk and a statutory intervention risk.
- 11.2 Governance risk arises because the authority is unable to demonstrate full operation of the governance model it has adopted.
- 11.3 Reputational risk arises because the public may reasonably expect elected representatives to establish leadership arrangements.
- 11.4 Operational risk arises where strategic decisions require clear political direction.
- 11.5 Legal risk arises if the position continues indefinitely, the Council remains in breach of its statutory requirements under the Local Government Act 2000 and Section 19 of the Children's act 2004.
- 11.6 Statutory intervention risks, under Best Value Duty, continued institutional paralysis exposes the authority to significant intervention risk under Section 15 of the Local Government Act 1999. Under Section 3 of the 1999 Act, the Council is subject to a statutory duty to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency, and effectiveness (the "Best Value" duty). A sustained inability to operate an effective governance framework demonstrates a failure of corporate governance. This creates a tangible risk that the Secretary of State for Housing, Communities and Local Government may exercise statutory powers of intervention, which can include issuing binding directions which must be adhered to within the time frame or risk it being enforced in the High Court or issuing an Order transferring executive functions from elected members to appointed independent Commissioners (Envoys)
- 11.7 In respect of Children's Services, the absence of an appointed Leader impacts the designation of a Lead Member for Children's Services pursuant to Section 19 of the Children Act 2004. The absence of statutory political accountability in this crucial area significantly heightens regulatory risk from Ofsted and creates a possibility of central government intervention under Section 497A of the Education Act 1996. Such intervention may range from the issuance of a formal Statutory Improvement Notice and the appointment of a Department for Education Children's Services Commissioner to the direct removal of operational functions and their transfer to an Alternative Delivery Model (such as an independent Children's Social Care Trust).

12. WHY SECTION 5 IS ENGAGED

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- 12.1 The duty is engaged because the omission has continued over multiple meetings, beyond a reasonable time frame. The Constitution allocates responsibility to Council for electing a Leader. Council has not been able to discharge that responsibility. The omission therefore remains live. It is not necessary to conclude that every subsequent act of the Council is unlawful before the Section 5 duty arises. Rather, the duty may arise where an omission threatens lawful and effective governance. In the Monitoring Officer's view, that threshold has now been reached.

13. MONITORING OFFICER OPINION

- 13.1 Having considered the chronology, constitutional framework and governance implications, the Monitoring Officer's provisional opinion is that Full Council has repeatedly failed to discharge a constitutional responsibility to elect a Leader; that the omission has continued beyond a reasonable time period; that the omission has impaired the operation of the governance framework adopted by the authority; and that the circumstances justify consideration of a report under Section 5 of the Local Government and Housing Act 1989. This opinion is provided subject to completion of consultation and verification of all relevant factual matters before issue.

14. IMPLICATIONS

- 14.1 Legal implications are contained throughout this report. There are no direct financial implications arising from the act of issuing the report itself, however the financial risks for the Council should commissioners ultimately be sent to Oldham are significant. Based on previous instances where commissioners have been sent to local authorities, it is likely there would be a need for multiple commissioners. This cost is not currently budgeted for and would need to be.
- 14.2 There are no identified staffing implications. Equality implications have not been identified in relation to the preparation of the report. The principal implications are governance, accountability and constitutional compliance.

15. RESOLUTION

- 15.1 Receive and note the statutory report of the Monitoring Officer issued under Section 5 of the Local Government and Housing Act 1989.
- 15.2 Acknowledge that the continued failure to appoint a Leader of the Council and a Lead member for Children's services, places the authority in breach of its own constitution and Section 91 of the Local Government Act 2000 and Section 19 of the Children Act 2004.
- 15.3 Proceed immediately at this meeting to nominate and vote upon the appointment of a Leader of the Council in accordance with council standing orders.
- 15.4 In the event an appointment is not made the Monitoring Officer will notify the Secretary of State for Housing, Communities and Local Government of the ongoing governance breakdown.

16. Consultation

- 16.1 The Monitoring Officer has consulted with the Head of Paid Service and Chief Finance Officer as required by law, both are supportive of this action.