

## **PART 3 - SECTION 5      SCHEME OF DELEGATION**

### **1.      Purpose of the Scheme**

- 1.1      The primary purpose of the Council's democratic structure is to make decision-making efficient, effective, accountable and transparent.
- 1.2      This section details the powers delegated by Council or Cabinet to Portfolio Holders, the Chief Executive, the Directors, Assistant Directors or other Officers designated by them in accordance with paragraph 4.2 below. A Member or Officer shall, when exercising a delegation, comply at all times with all relevant legislative requirements and guidance and with this constitution. Reference in these delegations to any Statute, Statutory Instrument or Regulation shall be deemed to include any statutory re-enactment or modification

### **2.      Conflicts of Interest**

- 2.1      Members and Officers are obliged to act in the best interests of the Council and to avoid situations where there may be a potential conflict of interest.
- 2.2      Conflicts of interest may arise where an individual's interests or loyalties are at variance (or could be at variance) with the Council's. If not dealt with properly, they can undermine confidence in the Council and expose it and/or the individual concerned to challenge. Interests or loyalties are interpreted in their widest sense, so this includes persons connected to an individual.
- 2.3      If Portfolio Holders or Officers think there is, or may be, a conflict, they should err on the side of caution and ensure that the Leader is informed (for Members) or the Chief Executive (for Officers), so that another Portfolio Holder or Officer can be nominated to take the particular decision. Alternatively, the matter can be referred to Cabinet (for Portfolio Holder decisions) or to an appropriate Portfolio Holder (for an Officer decision). All matters raised with the Leader or Chief Executive will be recorded to ensure an audit trail is maintained.
- 2.4      Offers of gifts and hospitality which might be regarded as intended to influence decisions must be refused as this could lead to a conflict of interest.
- 2.5      The above provisions do not replace the obligations contained in either the Member or Officer Code of Conduct.

### **3. Delegations to Individual Cabinet Members**

- 3.1 There are 8 Portfolio Holders who collectively comprise the Cabinet. Each Portfolio Holder is responsible for an area or areas of Council activity, and some Portfolio Holders have responsibility for issues which involve or affect a number or all of the Council's activities.
- 3.2 Set out below are the 8 Portfolio Holder areas of activity:-  
(It is agreed that the Assistant Director – Legal, Governance and Elections be allowed to update the Portfolio Roles on an annual basis.)

#### **Executive Leader**

The Leader's role cuts across all functions of the Council

- Investing in Wigan
- Economic Development
- Place Regeneration
- Transport Plan and Strategy
- Youth Unemployment
- Skills Strategy/Apprenticeships.
- Business Retention/Creation
- Business Rates generation/retention
- Job retention/creation
- Major projects
- Visitor Economy
- Town Centre Events
- Digital Infrastructure
- Mayoral

#### **Deputy Leader and Portfolio Holder for Adult Social Care**

- Support for the Leader
- Drug and Alcohol Team
- BeWell Leisure Services (Health Related)
- Support for older people
- Adults with learning disabilities and autism
- Adults with physical disabilities and sensory loss
- Adults with mental health issues
- Carers
- Health and wellbeing – Co-Chair Healthier Wigan Partnership System Board
- Adult Social Care
- Adult Safeguarding
- Public Health
- Support for particular groups on: -
  - Work and learning
  - Day services
  - Housing support
  - Residential support
  - Brighter Borough.

- Community Wealth Building

### **Portfolio Holder for Planning, Environmental Services and Transport**

- Planning
- Development Management
- Building Control
- Transport Strategy and Policy
- Climate Change Strategy
- Our Town Programme
- Trees and woodlands strategy / policy
- Conservation
- Walking and cycling schemes / major transport projects
- Car Parking Strategy, management and enforcement
- Pest Control
- Highways
- Road safety traffic
- Street lighting
- Refuse collection
- Highways design Bridges
- Waste management and recycling
- Provision of council vehicles and plant
- Utilities
- Highways and Building Services
- Food and Health and Safety
- Licensing and regulation
- Public health Trading standards
- 20 MPH speed limit
- Environmental enforcement
- Highways maintenance and transport
- Bereavement Services

### **Portfolio Holder for Children and Young Peoples Services**

- Learning and attainment
- Care and inclusion
- Early Help services/Family Hub Development
- Engagement with children and young people
- School leadership and management
- Looked after children
- Wigan Safeguarding Children Partnership and Corporate Parenting Board
- Special Educational needs and disability
- Early Years
- Governor services
- Youth participation
- Youth service
- Youth offending
- Children's' Centres and Startwell
- School Catering
- School Crossing Patrols

- Home to School Transport

### **Portfolio Holder for Finance, Resources and Transformation**

- Transformation Strategy
- Information Governance and Research
- Business Intelligence
- Programme and Project Management
- Reputation management
- Digital & ICT Services Strategic & Operational Delivery
- Consultations including petitions.
- Customer services
- Democratic Services
- Registrars
- Ordering of goods and services
- Financial services and monitoring
- Legal Services
- Human Resources
- Procurement and commissioning
- Asset and energy management

### **Portfolio Holder for Housing and Welfare**

- Housing Advisory Panel (Chair)
- Housing Services, including private sector reform and specialist housing
- Housing Growth and Regeneration Schemes
- Homelessness
- Housing Asset Management
- Tenant Services

### **Portfolio Holder for Communities and Neighbourhoods**

- Chair, Councillor Services Group
- Public relations and external communications
- Community Engagement Policy
- Building Self Reliance
- Community Recovery Fund
- Community Asset Transfers
- Community Rights
- Libraries, Museums and Archives
- Cultural Manifesto
- Neighbourhood Planning
- Member support
- Leisure Centres, Destination Parks and Outdoor Activities
- Parks and Green Spaces
- Wigan In Bloom

## **Portfolio Holder for Police, Crime and Civil Contingencies**

### Community Safety:

- Community Resilience Team
- Public Service Reform hub
- Domestic abuse community service contract
- Independent Domestic Violence Advocate &
- Local Authority Asylum Support Liaison Officers.
- Victim support service
- Prevent and Channel Panel management
- Community Cohesion and Hate Crime
- Management of the Place and Community Safety Partnership
- Service Delivery footprints, multi-agency responses to local crime and Ant-social behaviour hotspots.
- Public Protection orders
- CCTV and target hardening
- Liaison with Greater Manchester Police on joint responses to Police and crime priorities
- Liaison and representation at GM Police and Crime Panel and Steering Group meetings
- Implementation of new statutory requirements and responsibilities as required.
- Community Safety investment

### Civil Contingencies:

- Facilitating the councils 24/7/365 emergency response capability
- Facilitating the councils 24/7/365 response to planned events, e.g. demonstrations, marches, celebrations, concerts
- Emergency Planning
- Humanitarian support
- Warning and informing the population
- Training and exercising
- Business Continuity
- Building Resilient Communities
- Co-ordinating the Council's Counter Terrorism and Security Act 2015 strategy and response (section 36)
- Liaising and working with other Category 1 & 2 Responders
- Facilitating the Wigan Borough Resilience Forum
- CCTV/security enforcement
- Neighbourhoods Town Centre
- Community safety/anti-social behaviour/police
- CCTV/security enforcement
- Joint Intelligence Unit and Data Management

3.3 Portfolio Holders have delegated power to take all decisions within their area of responsibility subject to not having a conflict of interest described in paragraph 2 above, and the action being within the approved policy and budgetary framework.

3.4 Each Portfolio Holder is also responsible for the introduction of new policy as well as the development of policy and strategy in their area of activity. Portfolio Holders have delegated power to approve and

implement changes to policy and strategy provided that it does not incur expenditure for which there is no approved budget.

- 3.5 The Leader following consultation with appropriate Officers may in emergency circumstances or to protect the interests of the Council authorise the taking of any necessary action including the implementation of legal proceedings.
- 3.6 Any decision needing the approval of 3 or more Portfolio Holders shall be referred to Cabinet.
- 3.7 **Lead Members**

The position of a Lead Member was established by the Council in May 2018. The Lead Members are not able to operate as formal substitutes of the Portfolio Holders as they are not regarded as 'executive members' under the Local Government Act 2000.

<b>Position</b>	<b>Responsibilities</b>
Lead Member	Greener Wigan
Lead Member	Leisure and Public Health
Lead Member	Equalities and Domestic Abuse
Lead Member	Armed Forces and Veterans
Lead Member	District Centres and Nighttime Economy
Lead Member	Youth Opportunities
Lead Member	Heritage and Building Conservation

The position was established as it was acknowledged that a Cabinet Member may consider it appropriate to invite appropriate persons to attend meetings and speak on their behalf.

The Lead Members are appointed by the Executive Leader to assist the Cabinet Members in the undertaking of their duties. They may carry out such responsibilities as the Executive Leader determines and may deputise for the Cabinet Member in their absence, other than in respect of decision making and any limitations or conditions indicated below or which the Executive Leader may specify in respect of the ways in which the Lead Member will operate. The Executive Leader will be responsible for the actions of the Lead Members.

The Lead Members:-

- (a) will not be Cabinet Members, but may attend the Cabinet meetings.
- (b) may not serve on Scrutiny Committees.
- (c) at the request of the Executive Leader or the Deputy Leader, the Lead Member may assume the role of a Cabinet Member when a Cabinet Member is not available, for the purposes of consultation with the Chief Executive and members of the Senior Management Team, in order to develop policies.

- (d) may offer recommendations within their areas of responsibility, but as indicated above, these decisions would have to be taken by the Executive Leader himself or the Deputy Leader.
- (e) should ensure that the Executive Leader, Deputy Leader or Cabinet Members are kept aware of issues which are of concern to Members, liaising with non-executive Members in order to do so.
- (f) should provide advice and support to, and work closely alongside, the Executive Leader and Deputy Leader, liaising regularly with them upon key issues.
- (g) should meet regularly with senior officers, in order to keep fully apprised of relevant service issues, including budget meetings, and to advise the Cabinet accordingly.
- (h) should take the lead Executive role at conferences, seminars and meetings, including those of outside bodies at the request of the Executive Leader or the Deputy Leader, thereafter providing prompt feedback to the Cabinet and relevant officers.
- (i) should advise the Executive Leader or the Deputy Leader upon which diary appointments would benefit from the attendance of the Lead Member, on those occasions when the Executive Leader, Deputy Leader, or Cabinet Member are unable to do so, ensuring that the Cabinet diaries are monitored for this purpose.
- (j) should assist the Executive Leader or the Deputy Leader in establishing and maintaining professional, effective and efficient working relationships with opposition groups, Chairmen of Committees and other Members.
- (k) should communicate to staff, Members, partner agencies and service users, the policies of the Council and information about excellent Council activities.
- (l) should undertake such other roles and responsibilities as may arise, or as are allocated by the Executive Leader or the Deputy Leader, except for formal decision-making.
- (m) should note that they cannot exercise a vote at a formal meeting of the Cabinet.
- (n) should note that up to six Lead Members will be appointed by the Executive Leader.
- (o) will be held to account by the Executive Leader or the Deputy Leader.
- (p) should not move or second Cabinet recommendations at Council.
- (q) can present reports but must not answer questions on behalf of the Cabinet Member at Council.

## **4 Delegations to Officers**

4.1 The Chief Executive, Directors and Assistant Directors (or other Officers designated by them in accordance with paragraph 4.2 below) are authorised to carry out the business of the Council relevant to their areas of responsibility and to take all operational decisions necessary to ensure the smooth running of the Council's business. They are also authorised to act under all statutory powers (existing and future) in relation to their areas of responsibility. These Officers collectively are referred to as "the Officers".

4.2 To the extent allowed by the law, the Chief Executive, Directors and Assistant Directors may arrange for any decision delegated to them

under this Scheme to be exercised, when necessary, by an Officer of suitable seniority and experience. However, the Officer will remain responsible for any decision taken under these arrangements.

- 4.3 Before taking a key decision the responsible Officer shall first consult with the relevant Portfolio Holder or Committee Chairman (if available).
- 4.4 The fact that a matter stands delegated to an Officer under these arrangements shall not preclude the appropriate Portfolio Holder (or Cabinet) from exercising the matter directly. An Officer may consider that a delegated authority should not be exercised and that it should be referred to the appropriate Portfolio Holder (or Cabinet) for determination. The appropriate Portfolio Holder may request that an Officer refrains from exercising a delegated authority in respect of a particular matter and take the decision himself/herself or refer it instead to the Cabinet for a decision. The Cabinet may also determine to reserve decisions about particular matters to itself.
- 4.5 An Officer shall, when exercising a delegation, be under a duty to satisfy himself/ herself that the decision conforms to the Council's Constitution, and other approved policies, and that the decision is within the approved budget. In reaching the decision, the Officer should also observe approved practices and procedures, including those in relation to Ward Member/community consultation.
- 4.6 Decisions as to the commencement and discontinuance /settlement of criminal or civil proceedings must be exercised jointly with the Assistant Director – Legal, Governance and Elections or the Strategic Manager – Chief Legal Officer

## **5 Inability to Act**

- 5.1 Other than where the law does not allow, any Director or Assistant Director is authorised to act in the absence of the Chief Executive on any matter which is within their areas of responsibility.
- 5.2 The most relevant Director or Assistant Director available, or the Chief Executive, is authorised to act on any matter in the absence of another Director or Assistant Director, unless prevented in law.

## **6. Financial Limits on the Exercise of Delegations**

- 6.1 Portfolio Holders (with the exception of the Leader or Deputy Leader in his/her absence or inability to act) are restricted to taking delegated decisions involving expenditure or savings that do not exceed £2 million.
- 6.2 The Chief Executive, or the Deputy Chief Executive in his/her absence or inability to act, are restricted to taking delegated decisions involving expenditure or savings that do not exceed £2 million (except in emergency circumstances or to protect the interests of the Council).



6.3 Other Officers are unable to take Key Decisions. They must also not take Non-Key Decisions involving expenditure or savings over £1m. Unless delegated to do so, by Cabinet or a Portfolio Holder.

## **7. Delegations to the Integrated Commissioning Committee**

7.1 To the NHS Wigan Borough CCG the performance of the health related executive functions of the Council (provided proposed expenditure is within the approved pooled budget within the scope of the approved s.75 Agreement from time to time) under regulation 6(a) of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 along with anything that is calculated to facilitate or is conducive or incidental to the discharge of those functions under s.111 Local Government Act 1972;

7.2 The delegations authorised by 7.1, above, shall be further delegated by the NHS Wigan Borough CCG to the Integrated Commissioning Committee, and/ or to officers supporting the Integrated Commissioning Committee, to be established between the Council and NHS Wigan Borough CCG;

7.3 The relevant portfolio holder may take decisions within their area of responsibility (without financial limit provided proposed expenditure is within approved budgets) on health-related functions within regulations 6(aa)-(m) of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 where aligned to NHS Wigan Borough CCG decision –making within the scope of the approved s.75 Agreement from time to time;

7.4 Notwithstanding 7.1 & 7.2 above, the functions to be delegated to NHS Wigan Borough CCG shall only be exercised on the following basis:

- a) That the Council will retain the ability to appoint the Director - Adult Social Care and Health (and the other exceptions to Schedule 1 to the Local Authority Social Services Act 1970 under paragraph 6(a) of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000)
- b) That the Council will retain the function of making financial assessments and the setting and collection of fees and charges due and payable
- c) That expenditure under the relevant budget heads for particular services are not to be exceeded without prior agreement of the Integrated Commissioning Committee and provided that Integrated Commissioning Committee secures virement from another budget head or additional funds from elsewhere (including the Council)

- d) That commissioning has regard to both the Council's and the NHS Wigan Borough CCG's aims and objectives from time to time, including with regards to the development of the Healthier Wigan Partnership, and functions remain within the Council's Policy Framework as set out in Article 4 of the Constitution
  - e) That the Council and the NHS Wigan Borough CCG shall have regard to the Public Services (Social Value) Act 2012 in deciding what to commission and how.
  - f) That there shall be monitoring and reporting on the exercise of the powers hereby delegated, in accordance with the requirements set out in the approved s.75 Agreement.
- 7.5 Notes that, for the avoidance of doubt, any or all of the powers hereby delegated may be withdrawn and/or exercised by the Executive Leader concurrently at the absolute discretion of the Executive Leader.
- 7.6 Delegates to the Deputy Chief Executive/Director Finance and Legal authority to identify the officer who shall be the Pool Manager with regards to the Pooled Fund (or Funds) created under the approved s.75 Agreement. Such Pool Manager shall be authorised to manage the Pooled Fund (or Funds) and requirements on behalf of both the NHS Wigan Borough CCG and the Council in accordance with the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000.
- 7.7 Appoints the Executive Leader and the Portfolio Holders for Adult Social Care, for Children and Families, for Resources, Finance and Transformation and for Planning, Environmental Services and Transport to be the Council's representatives on the Integrated Commissioning Committee.