



Report to: Overview and Scrutiny Committee
Cabinet
Council

Date: 6th April 2009
16th April 2009
29th April 2009

Subject: Review of the Council's Constitution

Report of: Service Director - Borough Solicitor

Contact officer: Peter Hassett (Telephone: 01942 827381)

PURPOSE/SUMMARY: To invite Members to review the Council's Constitution.

ALTERNATIVE OPTIONS CONSIDERED AND REASON FOR SELECTING THE ONE RECOMMENDED: There is the option of not amending the Constitution pursuant to the review but this may not ensure efficient decision taking.

RECOMMENDATION/DECISION: That Cabinet recommend to Council that the Council's Constitution be amended as described in this report.

Key Decision: This report does not involve a key decision.

Risks / Implications:

Financial:	Not known
Staffing:	Not known
Policy:	Amendment to Wigan Council Constitution
Equal Opportunities - Has a Diversity Impact Assessment been conducted?	No
Wards affected:	All

Property Implications– Does the proposal involve a reduction, addition or change to the Council’s asset base or its occupation?

No

If yes have the property implications been agreed with the Corporate Property officer?

Does this proposal have significant implications for the Council and the local population?

No

Does this proposal involve a new policy or procedure or significant changes to an existing policy or procedure?

No

Has the Service Director - Borough Solicitor confirmed that the recommendations within this report are lawful and comply with the Council’s Constitution? **Yes**

Has the Service Director – Corporate Services confirmed that any expenditure referred to within this report is consistent with the Council’s budget? **No**

Are any of the recommendations within this report contrary to the Policy Framework of the Council? **No**

* delete which applicable

For Cabinet reports only :

Categorisation of the report:	x
Discussion leading to a decision	
Monitoring	
Sharing for corporate understanding	

	X
Discussion	
Decision	X
Information	

Tracking/Process:

	Consultation	Ward Members	Partners
Panel	Overview & Scrutiny	Cabinet	Council
	6 th April 2009	16 th April 2009	29 th April 2009

List of Background Papers in accordance with Section 100D of the Local Government Act 1972:

Document	Date	File Reference	Place of Inspection
Wigan Council Constitution			The Service Director Borough Solicitor, Town Hall, Library Street, Wigan

Proper Officer Kevin Lawson

Date 27 March 2009

BACKGROUND:

1. At the Annual Meeting of the Council held on 14th May 2008 the Council adopted various amendments to the Constitution and requested Cabinet to review the amendments to the Constitution and report back to Council should it then have any further recommendations to make.
2. This report reviews those amendments and suggests various further amendments as detailed below. Additional wording that is suggested be added to the Constitution is shown in **[bold]** with suggested wording to be deleted underlined.

REVIEW OF AMENDMENTS INTRODUCED IN MAY 2008

3. The key changes to financial limits within the Constitution introduced in May 2008 sought to remove unnecessary barriers to decision making and to reduce the numbers of routine items being taken to Cabinet to enable that body to concentrate on strategic issues and these were:
 - (a) The £150,000 financial limit on chief officers incurring capital expenditure was removed.
 - (b) The £150,000 financial limit on chief officers accepting tenders was removed.
 - (c) The financial limit on giving budget release for capital expenditure within the approved capital programme was increased from £150,000 to £200,000.
 - (d) The financial limit in Key Decision category 6 relating to capital expenditure was also increased from £150,000 to £200,000.
 - (e) A new provision was introduced that if an officer takes a delegated decision above £250,000 in value or if the decision is of strategic significance to the Council then the exercise of the delegation must be reported to a subsequent meeting (quarterly) of the Audit Governance and Improvement Review Committee or the relevant Panel.
4. The objective intended to be achieved by the above amendments has to some extent been frustrated by the requirement to obtain budget release prior to certain delegations being exercised. There is currently a delegation to the Service Director – Corporate Services to grant budget release up to £200,000. Once the revenue budget and capital programme is agreed by Council it is considered that there should be no need for the further step of budget release being required when the decision is later taken to spend the approved sums. Accordingly, it is recommended that the requirements in the Constitution to obtain budget release before a delegation is exercised be removed and that the delegation to the Service Director – Corporate Services to grant budget release up to £200,000 be removed as then being no longer required.

5. Since the requirement below was introduced in May 2008 only 6 exercises of delegation by officers above £250,000 in value or the decision being of strategic significance to the Council have been reported to Members. Accordingly, it is recommended that paragraph 2.2(f) of the Council's Scheme of delegations be deleted as it could be said to have proved unnecessary.

f) *If an officer takes a delegated decision above £250,000 in value or the decision is of strategic significance to the Council then he must report the exercise of the delegation to a subsequent meeting (quarterly) of the Audit, Governance and Improvement Review Committee or relevant Panel*

KEY DECISION LIMITS

6. There is currently an anomaly in the definition of Key Decisions whereby it is possible to accept a tender, or other expenditure, for an unlimited amount of revenue expenditure and it not be a Key Decision whereas if it involves capital expenditure it is a Key Decision if it is above £200,000. There would not appear to be a sustainable reason to continue this situation. A review of Wigan Council's Key Decision categories has therefore been undertaken to ascertain whether the rules can be simplified.
7. The provision governing the Key Decision definition is Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 which defines Key Decisions as:

"An executive decision which, is likely-

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

In determining the meaning of "significant" for the purposes of this provision regard must be had to any guidance issued by the Secretary of State.

8. The Guidance of the Secretary of State is reproduced in Appendix One of this report. Paragraph 7.17 of the guidance provides that:

"... the local authority should agree as a full council limits above which items are significant. The agreed limits should be published."

Each local authority therefore decides its own limits and they are contained within each local authority's constitution.

9. The significance of a decision being a Key Decision is that it must appear in the Forward Plan and if taken by an officer it is susceptible to call-in. All decisions by Cabinet are subject to possible call-in, whether or not they are Key Decisions.
10. I have undertaken a benchmarking review of other local authorities and have reproduced in Appendix Two to this report the key decision categories of each of the ten Greater Manchester local authorities (including Wigan) and those of Knowsley Borough Council. It can be seen that those authorities fall mainly into two distinct categories:
 - (a) Those, such as Wigan, Bury, Rochdale and Stockport, who have produced a list of 10 or 12 detailed key decision categories
 - (b) Those, such as Bolton, Manchester, Oldham, Salford, Tameside and Knowsley who have produced the Key Decision definition in the Regulations above and have then continued with a short definition of “significant” including some financial limits.
11. The three options that would appear to present themselves are:
 - OPTION A To continue with Wigan’s current Key Decision categories. This would require the financial limits within the Key Decision categories to be kept under review
 - OPTION B Adopt Key Decision categories similar to those adopted by Bolton, Manchester, Oldham, Salford, Tameside and Knowsley Councils who have produced the Key Decision definition in the Regulations above and have then continued with a short expansion on the definition including some financial limits. This option would prove much more understandable and workable and should require less frequent reviews to the financial limits set out in the categories.
 - OPTION C Adopt a hybrid of options A and B with the Key Decision definition in the Regulations above followed with an expanded list on the definition including some more detail on financial limits. This option has been taken by Trafford Council.

12. It is recommended that Option B above be adopted and that Article 13.03(b)(i) of Wigan Council's Constitution be amended to read as follows:

"The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 state that a Key Decision means an Executive decision which, is likely:-

1. *to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or*
2. *to be significant in terms of its effects on communities living or working in an area comprising two or more Wards or electoral divisions in the area of the local authority*

A decision will be considered financially significant if it results in incurring expenditure or making savings of £250,000 or greater; unless the expenditure or savings have previously been agreed by full Council.

In determining whether a decision is significant in terms of its effect on communities consideration should be given to:-

- a) *the number of residents/service users that will be affected in the wards concerned;*
- b) *whether the impact is short term, long term or permanent;*
- c) *the impact on the community in terms of the economic, social and environmental well-being."*

13. In addition to reviewing the amendments to financial limits following their introduction in May 2008 a wider review of the operation of the Constitution has been undertaken which suggests the following amendments:

AMENDMENTS TO PROCEDURE RULES

Annual Meeting of the Council

14. At its meeting held on 4th March 2009 Council agreed that the Annual Council Meetings should in future commence at 1.00pm and that following completion of the ceremonial business (Election of the Mayor for the ensuing Municipal Year, Vote of thanks to retiring Mayor and election of the Deputy Mayor for the ensuing Municipal Year) the meeting will be adjourned for one hour during which appropriate refreshments will be provided. Accordingly, it is recommended that Rule of Procedure 1.1 and 1.2(iii) be amended as follows:

- 1.1 (i) In a year when there is no ordinary election of Councillors, The Annual Meeting of the Council shall be held at 2.30p.m. [1.00 p.m]. at the Town Hall Wigan on such date as the Council may determine [or such time and date as the Head of Paid Service shall determine]. In a year where there is an election of Councillors the Annual Meeting must take place within 21 days of the retirement of the outgoing Councillors.
- (ii) The meeting of the Council in December shall be held at 6.00pm at the Town Hall, Wigan on such date as the Council shall determine.
- (ii) All other meetings of the Council save extraordinary meetings shall be held at 7.00pm at the Town Hall, Wigan on such dates as the Council may determine [or such time and date as the Head of Paid Service shall determine]
- 1.2 The annual meeting will:
- (i) elect a person to preside if the Mayor is not present;
 - (ii) elect the Mayor;
 - (iii) elect the Deputy Mayor; **[then adjourn for one hour]**

Questions and Comments On The Minutes Of Joint Authorities

15. The minutes of the Greater Manchester Joint Authorities are now included within the Council's minute books to enable Members to ask questions and make comments thereon at Council meetings. To enable sufficient time to refer any questions and comments to Joint Authorities for their response it is recommended that Rule of Procedure 8(1)(b) be amended to provide that such questions must be submitted by 12 noon on the Friday before Council.

In addition Members are requested to consider whether to amend Rule of Procedure 8(1) to provide that all questions (except urgent questions under Rule 8(1)(c)) be required to be submitted by 12noon on the Friday before Council. Such an amendment would have the following advantages:

- (a) It would be easier for Members to understand and comply with the time limits on questions if there was one time limit for all, rather than three for the three different types;
- (b) More notice of the question would be able to be given to the Member to whom the question is to be put. That Member is then less likely to make use of Rule of Procedure 8(2) by declining to answer or respond to the question
- (c) The Legal and Democratic Services Division will have a more reasonable availability of time to prepare the Mayor's agenda in advance of the meeting and agreeing it with the Mayor, rather than having to prepare it on the morning of the Council Meeting as is done at present

OPTION A – If Members only wish to amend Rule 8(1) to allow more time for responses to questions of Greater Manchester Joint Authorities then Rule of Procedure 8(1)(b) will need to be amended to read as follows:

*Questions to Cabinet Members and comments on items on Cabinet, Committees or Panels should be submitted by 5.00pm the working day before the Council Meeting to ensure that full answers may be provided. **[Questions and comments on Joint Authority minutes (including the Association of Greater Manchester Authorities) should be submitted by 12 noon on the Friday before the Council Meeting to ensure that full answers may be provided.]***

OPTION B – If Members wish to amend Rule 8(1) to provide that all questions (except urgent questions under Rule 8(1)(c)) be required to be submitted by 12noon on the Friday before Council then Rule of Procedure 8(1) will need to be amended to read as follows:

- (1) *A Member of the Council may:-*
 - (a) *If notice in writing has been given to the Chief Executive not less than 2 working days before the time of the [by 12 noon on the Friday before the Council] meeting ask the Mayor, a member of the Executive or the Chair of any Committee any question on any matter in relation to which the Council have powers or duties or which affects the district*
 - (b) *Questions to Cabinet Members and comments on items on Cabinet, Committees or Panels should be submitted by 5.00pm the working day [12 noon on the Friday] before the Council Meeting to ensure that full answers may be provided*
 - (c) *With the permission of the Mayor, put to him/her or a member of the Executive or the Chair of any Committee any question relating to urgent business, of which such notice has not been given; but a copy of any such question shall, if possible, be delivered to the Chief Executive not later than 10.00 a.m. on the morning of the day of the meeting*

Amendments To Motions

16. There have been occasions where amendments to motions have been carried but Members have wished to speak to the approved amended motion before it is put to the vote as the new substantive motion. The Mayor has, on occasion, allowed Members to speak in such circumstances to ensure the item under discussion is able to be adequately debated. To ensure that such situations are catered for it is recommended that Rule 11.6(e) of the Council's Rules of Procedure be amended as follows:

*“After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, **[and the Mayor considers that the matter has not been adequately debated, allow the amended motion to be discussed before putting] put** it to the vote.”*

Notice Of and Summons To Meetings

17. Following the transfer of the Democratic Services Function to the Legal and Democratic Division of Business Support Services it is recommended that Rule 5 of the Council’s Rules of Procedure be amended as follows such that notice of and summons to Council meetings is still given by the Head of Paid Service but that notices in respect of all other meetings is given by the Service Director Borough Solicitor.

“5. NOTICE OF AND SUMMONS TO MEETINGS

[5.1 Council Meetings]

*The Head of Paid Service will give notice to the public of the time and place of any **[Council]** meeting in accordance with the Access to Information **[Procedure]** Rules. At least five clear days before a **[Council]** meeting, the Head of Paid Service will send a summons signed by him or her by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.*

[5.2 Meetings of Cabinet, Committees, Sub-Committees and Panels

The Service Director Borough Solicitor will give notice to the public of the time and place of any meeting of Cabinet, a Committee, Sub-Committee or Panel in accordance with the Access to Information Procedure Rules. At least five clear days before any meeting of Cabinet, a Committee, Sub-Committee or Panel, the Service Director Borough Solicitor will send a notice to every member of the Cabinet, Committee, Sub-Committee or Panel or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.]”

Opening Of Tenders

18. Provisions relating to the opening of tenders are contained both in the delegations to all Chief Officers and also the Contract Procedure Rules. Accordingly, to avoid duplication, it is recommended that delegations (5) to all Chief Officers be amended as follows and delegation (6) be deleted:

(5) *The acceptance of tenders or quotations up to £50,000 provided that **[(unless an exemption to standing orders has been granted)]***:-

- (i) *the requirements of this Constitution have been complied with, and*
- (ii) ***[the provisions of the Contract Procedure Rules regarding the receipt and opening of tenders are complied with]***; and
all the tenders or quotations for any one contract are opened at the same time by a member of the departmental management team and one other officer graded PO or above; and
- (iii) *in the case of the acceptance of a tender or quotation other than the lowest (or the highest where payment is to be made to the Council) then before accepting such tenders the Chief Officer must first be satisfied, after having first consulted with the Service Director – Corporate Services that the tender represents the most economically advantageous tender and the best value for money and shall submit a report to a subsequent meeting (quarterly) of the Audit, Governance and Improvement Review Committee or relevant Panel stating the reasons therefore.*
- (iv) *the contract has budget approval*

[Note – It is important that tenders are opened speedily following the date for submission of tenders.]

(6) *The acceptance of tenders or quotations above £50,000 provided that*:-

- (i) *the requirements of this Constitution have been complied with, and*
- (ii) *all the tenders or quotations for any one contract are received by the Chief Executive or an officer designated by him and are opened at the same time by the Chief Executive or an officer designated by him and the appropriate Chief Officer or an officer designated by him;*
and

(iii) in the case of the acceptance of a tender or quotation other than the lowest (or the highest where payment is to be made to the Council) then before accepting such tenders the Chief Officer must first be satisfied, after having first consulted with the Service Director – Corporate Services that the tender represents the most economically advantageous tender and the best value for money and shall submit a report to a subsequent meeting (quarterly) of the Audit, Governance and Improvement Review Committee or relevant Panel stating the reasons therefore.

(iv) the contract has budget approval

19. To cover the situation where a Cabinet Member or Departmental Chief Officer may not be available to open tenders, or where a Cabinet Member may subsequently be involved in a decision on the award of the contract, it is recommended that Rule 7 of the Contract Procedure Rules be amended as follows:

- “7(1) Tenders estimated to exceed £150,000 shall be opened at one time and only in the presence of :-
- (a) such member or members of the Executive[, or if not **available or appropriate, a non-Executive Member,**] as may have been designated for that purpose by the Leader, or by the Chief Executive and;
 - (b) the Chief Executive or another official of the Council designated by him **[or her].”**
- (2) Tenders estimated to exceed £50,000 but not to exceed £150,000 shall be opened at one time and only in the presence of:-
- (a) the Chief Officer inviting the tenders or an official of the Council designated by him and
 - (b) the Chief Executive or an official of the Council designated by him
- (3) Tenders estimated not to exceed £50,000 shall be opened at one time only and in the presence of two officers designated by the appropriate Chief Officer one of which shall be a **[Head of Service]** member of the Departmental Management Team and the other shall be graded P.O. or above [S.O. or above in the case of the Environmental Services Department]. The Director of Environmental Services may designate one member of the Departmental Management Team and one other officer graded S.O. or above.

Exceptions To Standing Orders

20. To avoid ambiguity, it is recommended that an additional paragraph 1(4) be added to the Contract Procedure Rules as follows such that any exception to standing orders granted under paragraph 1(1) of the Contract Procedure Rules in respect of a particular contract has the effect of removing any similar restriction imposed elsewhere in the Constitution in respect of that contract.

[1(4) Any exception from any of the provisions of these standing orders granted under paragraph 1(1) above in respect of a particular contract has the effect of removing any similar restriction imposed elsewhere in the Constitution in respect of that contract.]

Disposal And Lease Of Surplus Land And Property

21. In view of the fact that land issues now lie within Business Support Services, it is recommended that the decision in relation to direct sales, and external confirmation of the terms of such a disposal, by private treaty be transferred from the Deputy Chief Executive to the Executive Director of Business Support Services and that the relevant part of paragraph 4 of Appendix One to the Financial Procedure Rules (Disposal Of Surplus Land And Property) be amended to read as follows:

*“In order that officer time is not taken up in defending accusations of impropriety the **[Executive Director of Business Support Services]** Deputy Chief Executive will be consulted in cases where direct land sales are proposed and where the **[Executive Director of Business Support Services]** Deputy Chief Executive believes it would be in the interests of the Authority to seek external confirmation of any element of the proposed agreement for sale, he will advise the **[Head of Property]** Executive Director Business Support Services to seek such confirmation from appropriate independent third parties (which includes the District Valuer).*

22. To facilitate the retention of surplus properties for community use it is recommended that an additional paragraph be added to Appendix One to the Financial Procedure Rules (Disposal Of Surplus Land And Property) as follows:

“[There are some occasions where the local community have requested that surplus properties be retained for community use. In such circumstances a lease may be granted to a community group/body at a rent of less than market value. However, if the granting of such a lease would result in a loss or reduction in a budgeted capital receipt in respect of that property the lease may only be granted if the Executive Director of Business Support Services consents.]”

and that an additional delegation be granted to the Executive Director Of Business Support Services (also exercisable by the Head of Property) as follows:

[(24) To grant, extend, or renew leases of land and premises for initial terms of up to 7 years (extendable up to a maximum of 25 years if in support of external funding in connection with the use of the property) to charitable organisations or other organisations established for charitable purposes, for community uses/charitable functions at less than market rent, providing that the rent concession is less than £25,000 per annum, or such lesser figure as Members may wish to authorise]

Appointment Of Chief And Deputy Chief Officers

23. Because of difficulties encountered in the past in finding four Members of the appropriate Panel to sit on Panels for the appointment of Executive Directors and Service Directors it is recommended that paragraphs 3.9 (a) and (b) of Part 3, Section 3 of the Constitution be amended to read as follows:

(a) *Appointment of Chief Officer*
*The longlist, final list of candidates for interview and appointment shall all be determined by a politically balanced Committee consisting of seven Members (at least one of which must be a Member of the Executive and four of which are **[,subject to availability,]** Members from the appropriate Advisory Panel or if there is none the Audit, Governance and Improvement Review Committee) and advised by the Chief Executive and the Executive Director of Business Support Services*

(b) *Appointment of Deputy Director or any other officer who is accountable direct to a Chief Officer appointed under J.N.C. for Chief Officers Conditions*

*The longlist, final list of candidates for interview and appointment shall all be determined by a politically balanced Committee consisting of seven Members (at least one of which must be a Member of the Executive and four of which are **[,subject to availability,]** Members from the appropriate Advisory Panel or if there is none the Audit, Governance and Improvement Review Committee) and advised by the Chief Executive and the Executive Director of Business Support Services*

ADDITIONAL FUNCTIONS OF THE REGULATION COMMITTEE

Objections To Road Traffic And Other Order Proposals

24. Members are advised that the Executive Director of Environmental Services currently takes the decision to advertise proposals to make various orders as detailed in his delegation number (41). Similarly, the Service Director Borough Solicitor currently takes the decision to advertise proposals to make various orders as detailed in his delegation number (17). Certain objections to such proposals are currently considered by Cabinet. To reduce the amount of routine business taken to Cabinet to enable it to concentrate on strategic issues, it is recommended that such objections are in future considered by the Regulation Committee and that the above delegations (17) and (41) and paragraph 3.4 of Part 3, Section 3 of the Constitution (Functions of the Regulation Committee) be amended as follows:

Delegations to the Service Director Borough Solicitor

- (17) *To make, amend and revoke off-street parking orders and to amend the wording of traffic regulation orders resulting from changes in the law or guidance except where the proposal:*
- i. has resulted in a request being received from a Member of the Council for the matter to be referred to **[the Regulation Committee]** Cabinet; or*
 - ii. has resulted in ten or more objections from separate addresses being received in writing (for clarification, a petition and/or a bundle of standard letters shall be regarded as one objection); or*
 - iii. has resulted in a significant objection from a statutory consultee*

Delegations to the Executive Director of Environmental Services

- (41) *The exercise of the Council's Functions in respect of the adoption of streets, traffic regulation orders **[(including on and off-street parking orders)]**, creation, stopping up or diversion of highways and public rights of way and all similar matters except where the proposal:*
- (i) has resulted in a request being received from a Member of the Council for the matter to be referred to **[the Regulation Committee]** Cabinet; or*
 - (ii) has resulted in ten or more objections from separate addresses being received in writing (for clarification, a petition and/or a bundle of standard letters shall be regarded as one objection); or*
 - (iii) has resulted in a significant objection from a statutory consultee*

Paragraph 3.4 of Part 3, Section 3 of the Constitution (Functions of the Regulation Committee)

New sub-paragraph 12 to be added as follows:

- [12. The determination of objections to proposals made under delegation (17) to the Service Director Borough Solicitor or delegation (41) to the Executive Director of Environmental Services where the proposal:**
- (i) has resulted in a request being received from a Member of the Council for the matter to be referred to the Regulation Committee; or**
 - (ii) has resulted in ten or more objections from separate addresses being received in writing (for clarification, a petition and/or a bundle of standard letters shall be regarded as one objection); or**
 - (iii) has resulted in a significant objection from a statutory consultee]**

Objections To The Sale Of Public Open Space Land

25. The disposal of public open space land can only be effected if public notice of the sale is given and any representations are considered. It is unclear presently who considers such representations. It is recommended therefore that a new sub-paragraph 13 to be added to paragraph 3.4 of Part 3, Section 3 of the Constitution (Functions of the Regulation Committee) as follows:

[13. The determination of objections to proposals to sell public open space land]

AMENDMENTS TO DELEGATIONS

Delegations to the Executive Director of Environmental Services

26. The current delegation in relation to directions restricting permitted development allow the relevant Directors to make such directions but not to confirm them following public consultation. To make it clear that the relevant Directors can confirm as well as make directions restricting permitted development under the Town and Country Planning General Permitted Development Order it is recommended that delegations (12) to the Service Director Borough Solicitor and (49) to the Executive Director of Environmental Services be amended as follows

(12) Jointly with the Director of Environmental Services to make [and confirm] directions restricting permitted development under the Town and Country Planning General Development Order, subject to a report of the action taken being submitted to the Planning Committee.

- (49) *To make **[and confirm]** directions restricting permitted development under the Town and Country Planning General Development Order, subject to a report of the action taken being submitted to the Planning Committee (joint delegation with the Service Director Borough Solicitor).*

27. The Council receives a great number of requests each year to cancel Penalty Charge Notices issued in relation to car parking enforcement. Under the Council's existing scheme of delegations such requests can only be approved by the Executive Director of Environmental Services or one of the Environmental Services Service Directors or Heads of Service. This can lead to delay in decisions being made. To increase the efficiency of the parking enforcement service it is recommended that the Parking Enforcement Manager and the Parking Enforcement Officer (who are office based staff that do not issue Penalty Charge Notices themselves) be authorised to cancel penalty charge notices by amending delegations (91) and (92) as follows:

(91) *Following consultation with the Service Director – Corporate Services To cancel Penalty Charge Notices under the car parking pay and display system and to write off debts arising therefrom where it is considered expedient to do so*

(92) *The management and control of parking enforcement including the enforcement of penalties and the commencement or withdrawal of proceedings*

[Delegations (91) and (92) may also be exercised by the Parking Enforcement Manager and the Parking Enforcement Officer.]

28. On the 1st April 2009 responsibility for the Council's markets will transfer to the Executive Director of Environmental Services. Accordingly, it is recommended that the following delegations be included in the delegations to the Executive Director of Environmental Services:

[(132) The powers to serve notices requiring information as to the quality, value and origin of goods on sale in markets.

(133) The day-to-day control of markets.

(134) The powers to deal with notices in respect of temporary markets.

(135) In cases concerned with the discipline and conduct of the Council's markets and the conduct of market traders (with the exception of cases of assault or other serious criminal offence):

(a) to determine whether a matter should be referred to the Regulation Committee or whether an attempt should be made to reach a settlement with the parties concerned;

(b) in cases where she has determined that an attempt should be made to reach a settlement with the parties involved:-

- (i) to conduct hearings with the parties;**
- (ii) if satisfied that an agreement has been reached that is acceptable to all parties and consistent with the good conduct of the market, to take any necessary action to implement that agreement; and**
- (iii) if not satisfied as set out in (ii) above, or if she is of the view that the only solution is to terminate a trader's licence, to refer the matter to the Regulation Committee**

(136) To permit car boot sales which fall within such guidelines as the Council may from time to time approve.

(137) The granting of licences for market stalls and the determination of requests for variations to user clauses.]

Delegations to the Executive Director Of Business Support Services

29. The existing scheme of delegations does not include a power allowing officers to give permission for the status of paths, etc across Council land being upgraded to public footpath/bridleway, etc. Accordingly, it is recommended that an additional delegation be granted to the Executive Director Of Business Support Services (also exercisable by the Head of Property) as follows:

[(25) After consultation with the Executive Director of the relevant department to dedicate Council land for use as a public footpath/bridleway or other highway use]

30. When Council land is transferred into or out of the Housing Revenue account there is a requirement for a notional value to be attached to the land. Because the current scheme of delegations does not provide who should carry out that valuation it is recommended that an additional delegation be granted to the Executive Director Of Business Support Services (also exercisable by the Head of Property) as follows:

[(26) To agree and value appropriations of land into and out of the Housing Revenue Account]

31. Since the Constitution was first adopted there have been a number of changes to the responsibility for people services issues without any review of people services delegations having been undertaken. Attached as Appendix Four to this report is a list of the delegations to the Executive Director of Business Support Services in relation to People's Services issues. Accordingly, it is recommended that those delegations be replaced by the new delegations also listed in Appendix Four.

Delegations To The Service Director Borough Solicitor

32. Prior to December 2008 the Service Director Borough Solicitor had a delegation to settle claims up to a value of £15,000 in conjunction with the relevant Chief Officer. On 11th December 2008 Cabinet considered a report informing it that claimant legal costs have risen significantly and thus in those cases where liability has to be conceded it is common for claims to exceed £15,000. The report invited Cabinet therefore to increase the financial limit in the delegation from £15,000 to £200,000 whilst confirming that claims which raise significant issues for the Council, irrespective of value, would still be reported to Cabinet. Cabinet having accepted the recommendation it is recommended that delegation (2) to the Service Director Borough Solicitor be amended as follows:

(2) *In conjunction with any other Chief Officer to settle any civil or criminal proceedings where the value of the proposed settlement does not exceed [~~£200,000~~] £15,000.*

[Delegation (2) above can also be exercised by the Service Director (Corporate Services) and the Head of Financial Services]

33. Occasionally, the government sets up task forces to attempt to tackle particular issues, either regionally or nationally, regarding trading standards matters. In such circumstances the government requests all the local authorities in a particular region to agree to allow their powers of prosecution, in relation to trading standards functions concerning the matters under investigation, to be exercisable by the regional task force (usually another local authority). The Council's current scheme of delegations does not contain any delegation to officers to agree to such matters. Accordingly, it is recommended that an additional delegation be granted to the Service Director Borough Solicitor as follows:

[(27) To authorise other Local Authorities and other persons/bodies to prosecute offences on behalf of Wigan Council.]

34. The former Director of Legal and Property Services was the 'specified person' to determine the first stage disputes under the Internal Dispute Resolution Process of the Local Government Pension Scheme. While the Service Director Borough Solicitor has carried out this function it is appropriate to confirm this role. It is recommended therefore that an additional delegation be granted to the Service Director Borough Solicitor as follows:

[(28) To be the specified officer responsible for deciding disputes at the First Stage of the Internal Dispute Resolution Procedure of the Local Government Pension Scheme.]

Delegations To The Executive Director Of Children And Young People

35. Occasionally minor amendments are required to the school holiday patterns but the current scheme of delegations only allows the Executive Director of Children and Young People to amend the school holiday patterns if he is requested to do so by a school Governor. Accordingly, it is recommended that delegation (19) to the Executive Director of Children and Young People be amended as follows to enable the Executive Director to determine school holiday patterns irrespective of whether a request for the revision has been received from a school governor:

(19) To determine requests by Governors for revisions to school holiday patterns.

Amendment To Delegations To Wigan And Leigh Housing

36. The delegations to Wigan and Leigh Housing Company Limited have not been reviewed since the Constitution was first adopted. In particular, it has been noted that the delegations to Wigan and Leigh Housing Company Limited do not contain an express provision allowing the delegations to be exercisable by officers within Wigan and Leigh Housing Company Limited. The matter has been considered by the Wigan and Leigh Housing Board and the Board has recommended that the delegations to Wigan and Leigh Housing Company Limited be amended as detailed in Appendix Three to this report. It is further recommended that Wigan and Leigh Housing Company Limited be authorised to delegate the functions delegated to it by the Council to such of its officers as it considers appropriate.

RECOMMENDATION:

37. That Cabinet recommend to Council that the Council's Constitution be amended as described in this report including which of the options to adopt in paragraph 15 of the report.

Kevin Lawson
Service Director Borough Solicitor

Appendix One - Guidance Issued by the Secretary of State Regarding Key Decision Categories

In 2000 the Secretary of State issued guidance to local authorities on drafting their constitutions which included a model constitution. With respect to Key Decisions the guidance provides as follows:

- “7.17 It will be for the potential decision-maker to decide, in any one case, whether a decision to be taken is likely to involve significant expenditure. In order to assist potential decision-makers within a local authority reach consistent and demonstrative objective judgements and to ensure the public are clear about what is regarded as significant locally, the local authority should agree as a full council limits above which items are significant. The agreed limits should be published. A local authority is able to set different thresholds for different services or functions, bearing in mind the overall budget for those services and functions and the likely impact on communities of each service or function. A decision involving expenditure or saving above the limit for the service or function concerned would be a key decision.*
- 7.18 In setting such thresholds, a local authority will need to bear in mind the underlying principles of accountable decision-making that there should be a presumption towards openness so that local people have knowledge sufficiently in advance of all those decisions which will be of genuine concern to local communities. In particular, local authorities will need to ensure that there is a consistency of openness between neighbouring local authorities at the same tier. Thus, whilst there may be a higher threshold set for certain matters in a large metropolitan local authority than in a small shire district operating executive arrangements, there should not be a wide discrepancy of approach, for example, between similar districts within a county or between neighbouring metropolitan boroughs.*
- 7.19 The Secretary of State intends to issue further guidance which will specify indicative thresholds for service or function budgets and that any executive decision which is likely to give rise to expenditure or savings above such thresholds should be treated as a key decision. The Secretary of State will be consulting shortly on what these thresholds should be and how this guidance might best be framed to ensure that, taking into account the need to ensure consistency between councils of the same type and size, thresholds can be set which will suit local circumstances and arrangements.*
- 7.20 The second test for a key decision focuses on those decisions which are not likely to involve significant expenditure or savings but which nevertheless are likely to be significant in terms of their effects on communities. The Regulations require that a decision which is likely to have a significant impact on two or more wards or electoral divisions is a key decision. Nevertheless, local authorities should, unless it is impracticable to do so, specify that they will treat as if they were key any decisions which are likely to have a significant impact on communities in one ward or electoral division. For example, a council should regard as key a decision to close a school or carry out roadworks (such as introducing or altering traffic calming measures) in a*

neighbourhood, notwithstanding the thresholds of financial significance and that there may be an impact in only one ward. Where a decision is only likely to have a significant impact on a very small number of people in one ward or electoral division the decision maker should ensure that those people are nevertheless informed of the forthcoming decision in sufficient time for them to exercise their rights to see the relevant papers and make an input into the decision making process.

7.21 In considering whether a decision is likely to be significant, a decision-maker will need to consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality affected. Regard should again be given to the underlying principles of accountable decision-making in paragraph 7.3 of this guidance to ensure that there is a presumption towards openness. While in broad terms, a key decision for the purposes of this test should be regarded as something which under traditional arrangements would have been referred to a committee or sub-committee of the council for decision, rather than being delegated to officers, the Secretary of State recognises that there are large variations in the levels of delegation in decision-making by authorities at present. Local authorities should seek, through consultation with other local authorities of the same type and size, to ensure there are not large variations in the level of openness between authorities in the future, and that any convergence in the practice of authorities is in the direction of greater openness.”

Appendix Two

Wigan Council Key Decision Categories

1. It is likely to be significant in terms of its effect on communities living or working in an area comprising two or more Wards or electoral divisions of the Council.
2. It is likely to have a major impact on the day to day life of a community living or working in one Ward or electoral division of the Council. An example would be the closure of a school or a major traffic regulation scheme.
3. It forms part of the development of or a change to the Policy Framework or the Budget Framework.
4. It involves revenue expenditure which is not within the Budget.
5. It involves virement in excess of that set out in the Budget.
6. It involves capital expenditure which is estimated to exceed £200,000 or is not within the Budget.
7. It involves a significant reduction in or change to a service or facility provided by the Council, such reduction or change not being within the Policy Framework or the Budget.
8. It involves the declaration of land or property, the estimated value of which exceeds £500,000 as surplus to the Council's requirements.
9. It involves the acquisition or disposal of land or property and the settling of compensation payments the value of which is estimated to exceed £500,000.
10. It involves the granting, determination or variation of leases, licences, easements or wayleaves at rents/considerations in excess of £100,000 per annum.
11. It involves the taking of licences or leases at rent values of more than £100,000 per annum.
12. Its consequences are likely to result in compulsory redundancies or major changes to the terms and conditions of employment of a significant number of employees across the Council's functions.

Bolton Council Key Decision Categories

1. Any Executive decision which requires expenditure in excess of £50,000 which was not in the budget approved by Council
2. Any Executive decision to vire £300,000 or more in the budget approved by Council
3. Any Executive decision where the outcome will have a significant impact on a significant number of people living or working in one or more electoral wards.

Bury Council Key Decision Categories

1. It is likely to be significant in terms of its effect on communities living or working in an area comprising two or more Wards in the Borough.
2. It is likely to have a major impact on the day to day life of a community living or working in the Borough.
3. It forms part of the development of, or a change to, the Policy Framework or the Budget.
4. It involves revenue expenditure or saving that is neither provided for within the Budget, nor virement permitted by the Constitution.
5. It involves capital expenditure which is estimated to exceed £250,000 or is not provided for within the approved Capital Programme.
6. It involves a significant reduction in or significant change to any service or facility provided by the Council, such reduction or change not being within the Policy Framework or Budget.
7. It consists of the declaration of land or property, the estimated value of which exceeds £250,000 as surplus to the Council's requirements.
8. It involves securing approval in principle to the acquisition or disposal of land or property the value of which is estimated to exceed £250,000.
9. It involves securing approval in principle to the taking of, or the granting, renewal, assignment, transfer, surrender, taking of surrenders, review, variation or termination of any leases, licences, easements or wayleaves at considerations in excess of £250,000 per annum or a premium of £250,000.
10. Its consequences are likely to result in compulsory redundancies or major changes to the terms and conditions of employment of a significant number of Council employees or in a major restructuring of staffing resources.

Manchester City Council Key Decision Categories

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

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

Oldham Council Key Decision Categories

1. A key decision is any decision which is likely to result in a local council incurring expenditure which is, or the making of savings which are, significant having regard to the local Council's budget for the service or function to which the decision relates; or
2. 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

Rochdale Council Key Decision Categories

1. It is likely to have a major impact on the life of a community within the Borough (e.g. the closure of a school or a major traffic regulation scheme)
2. It forms part of the development of, or the development of a change to, the Policy or Budget Framework.
3. Either:
 - (a) it involves revenue expenditure or saving that is neither provided for within the Budget, or virement not permitted by the Constitution, or
 - (b) it involves revenue expenditure or saving in excess of £500,000
4. It involves capital expenditure which is estimated to exceed £500,000 or is not provided for within the budget.
5. It involves a significant reduction in or significant change to a service or facility provided by the Council, such reduction or change not being within the Policy Framework or Budget.
6. It consists of the declaration of land or property, the estimated value of which exceeds £500,000 as surplus to the Council's requirements.
7. It involves securing approval in principle to the acquisition or disposal of land or property, the value of which is estimated to exceed £500,000.
8. It involves securing approval in principle to the taking of, or the granting, renewal, assignment, transfer, surrender, taking of surrenders, variation or termination of any leases, licences, easements or wayleaves at considerations in excess of £10,000 per annum or a premium of £100,000.
9. Its consequences are likely to result in compulsory redundancies or major changes to the terms and conditions of employment of a significant number of Council employees.

Salford Council Key Decision Categories

The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 state that a key decision means "an executive decision which is likely:

1. to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
2. to be significant in terms of effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority."

(In the absence of advice from H.M. Government as to appropriate expenditure levels for the purposes of 1 above, the council have fixed this figure at £100,000)

Stockport Council Key Decision Categories

1. It is likely to result in the Council incurring expenditure or making savings which are significant having regard to the Council's budget for the service or function to which the decision relates
2. It is likely to be significant in terms of its effect on communities living or working in 2 or more Stockport Wards
3. It forms part of the development of, or the development of a change to, the Policy Framework or Budget.
4. It involves revenue expenditure or saving that is neither provided for within the Budget, nor virement permitted by the Constitution.
5. It involves capital expenditure that is not provided for within:
 - (a) the capital estimate for a specific scheme; or
 - (b) a lump sum capital estimate;
 - (c) the capital programme at all, subject to rule 5.7 of the Financial Procedure Rules, which permits the Executive to utilise released capital funding for other projects where approved scheme costs are reduced or the approved scheme is deleted (unless the resources were specifically ring fenced).
6. It involves a significant reduction in or significant change to a service or facility provided by the Council, such reduction or change not being within the Policy Framework or Revenue Budget.
7. It consists of the declaration of land or property, the estimated value of which exceeds £250,000, as surplus to the Council's requirements.
8. It involves securing approval in principle to the acquisition or disposal of land or property the value of which is estimated to exceed £250,000.
9. It involves securing approval in principle to the taking of, or the granting, renewal, assignment, transfer, surrender, taking of surrenders, review, variation or termination of any leases, licences, easements or wayleaves at considerations in excess of £250,000 per annum or a premium of £250,000.
10. Its consequences are likely to result in compulsory redundancies or major changes to the terms and conditions of employment of a significant number of Council employees.

Tameside Council Key Decision Categories

The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 state that a Key Decision means an Executive decision which, is likely:-

1. to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
2. to be significant in terms of its effects on communities living or working in an area comprising two or more Wards or electoral divisions in the area of the local authority

subject to any guidance issued by the Secretary of State in relation to the meaning of 'significant'.

By way of defining 'significant' for the Council's purposes a Key Decision is:-

- Any Executive decision which requires a budget expenditure of £30,000 or more that is not in the budget presented to Council;
- Any Executive decision to vire £500,000 or more in the budget presented to Council;
- Any Executive decision where the outcome will have a significant impact on a significant number of people living or working in a District Assembly area where this is less than two Wards.

Trafford Council Key Decision Categories

1. It is likely to result in the Council incurring expenditure or making savings which are significant having regard to the Council's budget for the service or function to which the decision relates
2. to be significant in terms of its effect on communities living or working in 2 or more Trafford Wards
3. It forms part of the development of, or the development of a change to, the Policy Framework or Budget.
4. It involves securing approval in principle to the acquisition or disposal of land or property the value of which is estimated to exceed £500,000.
5. It involves securing approval in principle to the taking of, or the granting, renewal, assignment, transfer, surrender, taking of surrenders, review, variation or termination of any leases, licences, easements or wayleaves at considerations in excess of £250,000 per annum or a premium of £500,000.
6. Its consequences are likely to result in compulsory redundancies or major changes to the terms and conditions of employment of a significant number of Council employees.

Knowsley Council Key Decision Categories

It is likely:-

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

(Note: The Secretary of State may issue guidance as to the meaning of the term "significant").

A decision will be considered financially significant if:-

- i. In the case of revenue expenditure, it results in incurring expenditure or making savings of £250,000 or greater;
- ii. In the case of capital expenditure, the capital expenditure/savings are in excess of £1 million.

Unless the specific expenditure or savings have previously been agreed by full Council or it is a decision taken in accordance with the Council's Treasury Management Policy.

In determining whether a decision is significant in terms of its effect on communities consideration should be given to:-

- d) the number of residents/service users that will be effected in the wards concerned;
- e) whether the impact is short term, long term or permanent;
- f) the impact on the community in terms of the economic, social and environmental well-being.

Appendix Three – Amendments to the Delegations to Wigan and Leigh Housing Company Limited

Functions of the Wigan and Leigh Housing Company Limited in respect of the Management of the Council's Housing Stock from 1st April 2002.

Section 1 – Amendments to existing delegations to Wigan and Leigh Housing Company Limited require updating. Words to be deleted struck through, words to be added in bold.

- (9) Rehousing of families ~~and~~ **[households]** rendered homeless due to fire, storm damage or the structure of the dwelling becoming dangerous.
- (15) The following functions under the Right to Buy and ~~Rents to Mortgages~~ legislation:
- (i) Powers to determine whether or not dwellinghouses are excluded from the right to buy ~~and rents to mortgages~~ being dwellinghouses for physically disabled persons.
 - (ii) Powers to determine whether or not dwellinghouses are excluded from the right to buy ~~and rents to mortgages~~ being groups of dwellinghouses with an Adult Services or special facility.
 - (iii) Powers to determine whether or not dwellinghouses for the elderly can be exempted from the right to buy ~~and rents to mortgages~~ and authorised to make application to the Secretary of State whenever necessary for a determination as to whether or not a dwellinghouse comes within this category.
 - ~~(iv) Powers to extend a tenant's time for service of a Notice deferring completion or claiming his right to a mortgage.~~
 - (iv) The enforcement of the Council's rights in respect of completion notices and rent arrears.
 - (v) Powers to serve all appropriate notices on Council house sales ~~and rents to mortgages~~ and other appropriate notices required under the legislation.
 - ~~(vi) Powers to extend the period in which a tenant is allowed to give notice in writing to the Council of his intention to take up a mortgage.~~
 - (vi) Powers to accept a statutory declaration in cases where it is considered that there is insufficient evidence to corroborate a tenant's claim under the Right to Buy ~~or rents to mortgages~~.
- (16) To write off sums outstanding in respect of former tenants' arrears[, **in consultation with the Council**].

- (18) By arrangement with the Service Director Borough Solicitor to serve notices seeking possession and to institute County Court Possession Proceedings and Eviction Proceedings on the grounds of non-payment of rent **[or other breaches of tenancy conditions.]**
- (20) To deal with special circumstances**[, in relation to the rehousing of Wigan Council tenants, that are]** not adequately provided for within the Council's allocation policy.

Section 2

It is proposed to extend the following existing delegations to All Chief Officers of the Council to Wigan and Leigh Housing Company Limited with any necessary amendments indicated.

- (32) To incur revenue expenditure within the Policy Framework and the Budget subject to:-
- [(i) the revenue expenditure being for works or services approved by Wigan and Leigh Housing Board, and]**
 - (ii) compliance with the requirements of this Constitution, and
 - (iii) the consent of the Executive where the proposed expenditure is in respect of any new purpose or project or in pursuance of a new policy or an extension of an existing policy involving a continuing financial commitment, unless the expenditure was specifically approved in the annual revenue estimates.
- (33) To incur capital expenditure within the Policy Framework and the Budget provided that:-
- [(i) the capital expenditure being for works or services approved by Wigan and Leigh Housing Board, and]**
 - (ii) the project is included in the approved Capital Programme; and
 - (iii) the requirements of this Constitution have been complied with; and
- (34) The acceptance of tenders or quotations provided that (unless an exemption to standing orders has been granted):-
- i. **the tender or quotation is for works or services approved by Wigan and Leigh Housing Board, and]**
 - ii. the requirements of this Constitution have been complied with, and
 - iii. the provisions of the Contract Procedure Rules regarding the receipt and opening of tenders are complied with; and
 - iv. **[a member of Wigan and Leigh Housing Management Team will authorise the acceptance of the lowest tender or quotation; and]**
 - v. in the case of the acceptance of a tender or quotation other than the lowest (or the highest where payment is to be made to the Council)

then before accepting such tenders the Chief Officer must first be satisfied, after having first consulted with the Service Director – Corporate Services that the tender represents the most economically advantageous tender and the best value for money and shall submit a report to a subsequent meeting (quarterly) of the Audit, Governance and Improvement Review Committee or relevant Panel stating the reasons therefore.

- (vi) the contract has budget approval
- (35) To sign[, **as Agent for the Council,**] contracts (except for the acquisition or disposal of land or any interest in land) provided that:-
- (i) **[the contract is for works or services approved by Wigan and Leigh Housing Board, and]**
 - (ii) the **[value of the]** contract does not exceed **£500,000 [such sum specified by the Council from time to time];** and
 - (iii) the requirements of this constitution **[Standing Orders and Financial Regulations of the Council]** have been complied with, and
 - (iv) **[the Council's Scheme of Delegations has not been exceeded; and]**
 - (v) the Service Director Borough Solicitor has approved the form of contract as appropriate for the type of contract concerned; and
 - (vi) notification of the exercise of the delegation is given to the Service Director Borough Solicitor and Service Director Corporate Services in such form and with such information as they may require; and
 - (vi) notification of the exercise of the delegation in respect of contracts with a value exceeding £150,000 is placed before a subsequent meeting (quarterly) of the Audit, Governance and Improvement Review Committee or relevant Panel in such form and with such information as the Service Director Corporate Services may require.
- (36) To approve price variations under contracts **[for works or services approved by Wigan and Leigh Housing Board]** containing a fluctuation clause, in conjunction with the Service Director Corporate Services.
- (37) In respect of functions ~~exercisable through their Departments~~ **[delegated to Wigan and Leigh Housing Company Limited]**, the appointment or authorisation of officers to enter premises under statutory powers, to act under public protection legislation, to examine and seize food or any other articles, things or matter, to make test purchases **[to effect necessary inspections and repairs]** and to remove persons from all Council premises **[and to arrange the removal of unauthorised persons].**

- (38) To make[, **as Agent for the Council,**] ex-gratia payments to claimants for loss or damage to property up to a maximum of £1000 subject to the following conditions:
- (i) that the power to settle is restricted to claims which do not involve personal injuries;
 - (ii) that a receipt is signed by the claimant, in a form approved by the Service Director Borough Solicitor, acknowledging the compensation in full and final settlement of their claim;
 - (iii) that claims are only settled where the Chief Officer concerned **[Executive of Wigan and Leigh Housing Company Limited]** accepts that there is a clear liability on the Council for the loss or damage sustained by the claimant;
 - (iv) that no settlements are made purely for the convenience of avoiding the need to correspond with and provide reports to the Council's insurers; and
 - (v) that the cost of the settlement is met out of the budget of the Department in respect of whose premises or function the claim arose **[Housing Revenue Account or the General Fund, as appropriate.]**
- (39) To let **[arrange the letting of]** any necessary contracts **[approved by Wigan and Leigh Housing Board]** in respect of their functions for projects on Council land which are to be funded by Landfill Tax Credits subject to the normal rules as to the suitability of and the signing of contract documentation.

Section 3

The following additional delegations are recommended:

- [(40) To write off Court costs in respect of actions taken to facilitate annual servicing of gas appliances, in consultation with the Council.**
- (41) To write off sums outstanding in respect of leaseholder service charges, in consultation with the Council.**
- (42) To write off current tenant arrears for tenants subject to a Bankruptcy Order, in consultation with the Council.**
- (43) Assessment of mutual exchange applications in accordance with the grounds laid down in relevant legislation.**
- (44) To determine and collect on behalf of the Council service charges payable by leaseholders of Council properties managed by Wigan and Leigh Housing, in consultation with the Council.**

- (45) By arrangement with the Service Director Borough Solicitor to institute County Court Proceedings to recover service charges from leaseholders which could lead to forfeiture of the lease or place a charge against the property.**
- (46) To collect former tenants arrears on behalf of the Council and agree the values of former tenants arrears debts to be accepted in a negotiated settlement, in consultation with the Council.**
- (47) To nominate applicants from the Housing Register to providers of housing accommodation in accordance with service level agreements and provide progress reports to the Council.**
- (48) The delegated functions from the Council with regard to:**
- the assessment of applications from those who may be homeless and the provision of advice, support and accommodation, where appropriate**
 - the provision of advice and support to victims in cases of illegal harassment or illegal eviction by other landlords.**
- (49) To assess and award medical or welfare priority for Housing Register applicants or remove awards in appropriate circumstances.**
- (50) To assess and make decisions on appeals by Housing Register applicants against their priority band assessment.**
- (51) To manage the Affordable Housing List on behalf of the Council.**
- (52) By arrangement with the Service Director Borough Solicitor to serve notices seeking possession on households in non-secure homeless persons accommodation and to institute County Court Possession Proceedings and Eviction proceedings in connection with duties owed under Part VI of the Housing Act 1996 or on the grounds of non-payment of rent or other breaches of tenancy conditions.**
- (53) To assess referrals for support and allocate appropriate support packages for applicants meeting the relevant criteria.**
- (54) The allocation and management of temporary accommodation.**
- (55) To manage the Council's sheltered housing service, including the operational adherence to the Supporting People contract.**
- (56) To manage Wigan and Leigh Housing's Affordable Housing Programme**

- (57) To manage and maintain a comprehensive asbestos register and database for all Wigan and Leigh Housing office premises and the common parts of Council properties managed by Wigan and Leigh Housing.**
- (58) To manage a programme of Legionella risk assessments at Wigan and Leigh Housing office premises and Council properties managed by Wigan and Leigh Housing and organise remedial work as identified.**
- (59) To manage the remediation works to contaminated land on the Ince Central Estate and authorise Capital expenditure on behalf of the Council, within approved budgets.**
- (60) To ensure that the company meets its statutory obligations in relation to the provision of energy performance certificates.**
- (61) To deliver the new build element of the Affordable Housing Programme on identified sites.**

Appendix Four – Delegations to the Executive Director, Business Support Services in Relation to People’s Services Issues

Existing Delegations

Delegations 1) to 6) may also be exercised by the Head of People’s Services

- 1) To authorise car allowance/loan facilities for full-time peripatetic teachers subject to any limitations imposed by approved Human Resource Policies or the Executive
- 2) To grant additional maternity leave beyond statutory entitlement
- 3) To authorise the transfer or continuance of car loans to officers transferring to undesignated posts, whether within the Council's service or from another authority, and the grant of new loans to previous borrowers at an earlier date than is provided under the approved Human Resource Policies.
- 4) To agree to early retirement applications including those under Regulation 31(4) of the Local Government Pension Scheme Regulations 1997 where there is no direct cost to the Council.
- 5) To agree increases in benefit required under Regulation 13 of the Local Government Pension Scheme (Transitional Regulations) 1997 as and when cases are notified by the Administering Authority.
- 6) To increase casual rates of pay each year as follows:-
 - i) apply the National Minimum Wage with effect from the appropriate date and in accordance with the regulations; and
 - ii) the National Pay Award for NJC for Local Government Services with effect from 1st April for employees not covered by the regulations.
- 7) Jointly with the Chief Executive to determine terms and conditions on which staff hold office and to manage the implementation of pay and reward reviews/single status agreement and to use reserves and balances, as set out in the budget framework, to support such implementation and any settlements in relation to that implementation and in relation to equal pay claims

Proposed Additional Delegations to other Chief Officers

It is recommended that delegation 1) above be transferred to the Executive Director of Children and Young People Services.

It is recommended that delegations 2) and 3) above be transferred to the list of delegations to all Chief Officers.

Proposed Delegations to the Executive Director, Business Support Services in Relation to People's Services Issues

[Delegations 1) to 4) may also be exercised by the Head of People's Services

- 1) To jointly agree, with the relevant Executive Director, the determination of the establishment and grading of individual departments and decisions in respect of changes thereto**
- 2) To jointly agree, with the relevant Executive Director, the determination of requests for early retirement and the terms thereof including pension benefits and waiver of council's rights as employer**
- 3) To agree increases in benefit required under Regulation 13 of the Local Government Pension Scheme (Transitional Regulations) 1997 as and when cases are notified by the Administering Authority.**
- 4) To increase casual rates of pay each year as follows:-
 - i) apply the National Minimum Wage with effect from the appropriate date and in accordance with the regulations; and**
 - (ii) the National Pay Award for NJC for Local Government Services with effect from 1st April for employees not covered by the regulations.****
- 5) Jointly with the Chief Executive to determine terms and conditions on which staff hold office and to manage the implementation of pay and reward reviews/single status agreement and to use reserves and balances, as set out in the budget framework, to support such implementation and any settlements in relation to that implementation and in relation to equal pay claims]**