

**Manchester City Council
Report for Resolution**

Report to: Constitutional and Nomination Committee – 9 October 2013

Subject: Delegation of non-executive functions to the Head of
Neighbourhood Delivery

Report of: City Solicitor

Summary

The purpose of this report is to enable the Committee to make recommendations to Council to delegate to the post of the Head of Neighbourhood Delivery the non-executive functions that are set out in Appendix 1 to the report.

Recommendations

That the Committee:

1. Recommends that Council delegates to the post of the Head of Neighbourhood Delivery the discharge of those of the Council's functions that are designated as "Non-Executive Functions" in Appendix 1 to this report;
2. Recommends that Council delegates to the post of the Head of Neighbourhood Delivery the discharge of those of the Council's functions that are designated as "General Functions" in Appendix 1 to this report, insofar as these are non-executive functions.
3. Notes the delegations to the post of the Head of Neighbourhood Delivery in relation to the discharge of those of the Council's functions that are designated as "Executive Functions" in Appendix 1 that were made by Executive at its meeting on 11 September 2013.

Financial consequences for revenue budget:

None Directly

Financial consequences for capital budget:

None Directly

Wards affected:

All

Implications for

Antipoverty	Equal Opportunities	Environment	Employment
No	No	No	No

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Background documents (available for public inspection):

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

1. Report of the Chief Executive to Personnel Committee on 10 April 2013 entitled "Growth and Neighbourhoods";
2. Report of the City Solicitor to Council on 15 May 2013 entitled "Constitution of the Council"
3. Report of the Chief Executive to Personnel Committee on 26 June 2013.
4. Report of the City Solicitor to Executive on 11 September 2013.

1.0 Introduction

- 1.1 On 26 June 2013 the Personnel Committee agreed to create a new Directorate of Growth and Neighbourhoods with consequent changes in senior management arrangements and requested the City Solicitor to report to the Council and (in relation to executive functions) the Leader and Executive on changes to delegations required by the restructuring.
- 1.2 Section 9D of the Local Government Act 2000 (as amended) provides that every function of the Council is the responsibility of the Executive unless a statute says differently, or the function is identified as a “non-executive” function by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).
- 1.3 Paragraph 4.3 of the Chief Executive’s report to Personnel Committee of the 26 June 2013 (“the June Report”) sets out the role of the new post of Head of Neighbourhood Delivery. The post of Head of Neighbourhood Delivery will be responsible for the discharge of the Council’s “neighbourhood delivery” functions that were previously delegated to the post of Assistant Chief Executive (Neighbourhood Strategy and Delivery) which has now effectively been disestablished, with the exception of the Council’s “environmental strategy” functions, which paragraph 4.7 of the June Report proposes should be the responsibility of the Head of Policy, Partnerships and Research and the Council’s various licensing functions which have been made the responsibility of the new post of the Head of Planning, Building Control & Licensing in accordance with recommendation number 9 of the June Report. The proposed delegations to the post of Head of Neighbourhood Delivery attached at Appendix 1 to this report also propose to delegate to this post the “General Function” of supporting the Chief Executive in his responsibilities in relation to civil contingencies, emergencies and disasters, and to take day to day responsibility for such matters, in accordance with the proposal at paragraph 4.3.2 of the June Report.

2.0 The Delegation of Non-Executive Functions

- 2.1 The Committee is asked to recommend to Council the delegations to the post of the Head of Neighbourhood Delivery of the discharge of those of the Council’s functions that are designated as “Non-Executive Functions” in Appendix 1 to this report and those of the Council’s functions that are designated as “General Functions” in Appendix 1 to this report, insofar as these are non-executive functions.

APPENDIX 1

HEAD OF NEIGHBOURHOOD DELIVERY

The holder of the post of Head of Neighbourhood Delivery shall be responsible for the management of the Neighbourhood Delivery Division within the Growth and Neighbourhoods Directorate including highways, street scene services (including grounds maintenance), environmental health and protection, consumer protection, and private sector housing and without prejudice to the foregoing, shall have power subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations and any legal requirements, to:

GENERAL FUNCTIONS

These functions can either be Executive or Non-Executive depending on the circumstances.

1. Without prejudice to the specific delegations of the Deputy Chief Executive (Growth and Neighbourhoods), to exercise the functions of the Council relating to highways and to administer and enforce all relevant legislation relating to the Council's functions as local highway authority, including the authorisation of legal proceedings and the authorisation of officers to enter land and premises and exercise any powers in pursuance of the Council's functions as local highway authority.
2. To exercise the functions of the Council relation to environmental health, waste and environmental protection, pollution control, contaminated land, private sector housing, street scene services (including grounds maintenance), health and safety, food safety, animal welfare, consumer protection, and weights and measures.
3. To administer and enforce all relevant legislation relating to the Council's functions listed at item 2 above, including the authorisation of legal proceedings and the authorisation of officers to enter on to land and premises to carry out their duties.
4. To support and assist the Chief Executive in his responsibilities in relation to civil contingencies, emergencies and disasters, and to take day to day responsibility for such matters.
5. To take any urgent action in connection with the functions delegated to the Head of Neighbourhood Delivery) after consultation with the appropriate Chair or Executive Member, subject to any such action taken under this power being reported to the next ordinary meeting of the Executive or appropriate Committee.

NON-EXECUTIVE FUNCTIONS

Highways

6. Power to create footpath, bridleway or restricted byway by agreement (subject to consultation with the Chair of the Planning and Highways Committee) under Section 25 of the Highways Act 1980 (“the 1980 Act”).
7. Power to create footpaths, bridleways and restricted byways (subject to consultation with the Chair of the Planning and Highways Committee) under Section 26 of the 1980 Act.
8. Duty to keep register of information with respect to maps, statements and declarations under Section 31A of the 1980 Act.
9. Power to grant permission for the provision, etc of services, amenities, recreation & refreshment facilities on highway, and related powers under Sections 115E, 115F and 115K of the 1980 Act (but subject to the referral of objections / representations to any Section 115E proposals to the Deputy Chief Executive (Growth and Neighbourhoods)).
10. Duty under Section 115G of the 1980 Act to publish notice in respect of proposals to grant permission under Section E of the 1980 Act.
11. Power to stop up footpaths, bridleways and restricted byways (subject to consultation with the Chair of the Planning and Highways Committee) under Section 118 of the 1980 Act.
12. Power to make a rail crossing extinguishment order (subject to consultation with the Chair of the Planning and Highways Committee) under Section 118A of the 1980 Act.
13. Power to make a special extinguishment order (subject to consultation with the Chair of the Planning and Highways Committee) under Section 118B of the 1980 Act.
14. Power to divert footpaths, bridleways and restricted byways (subject to consultation with the Chair of the Planning and Highways Committee) under Section 119 of the 1980 Act.
15. Power to make a rail crossing diversion order (subject to consultation with the Chair of the Planning and Highways Committee) under Section 119A of the 1980 Act.
16. Power to make a special diversion order (subject to consultation with the Chair of the Planning and Highways Committee) under Section 119B of the 1980 Act.
17. Power to require applicant for order to enter into agreement under Section 119C(3) of the 1980 Act.
18. Power to make SSSI diversion order (subject to consultation with the Chair of the Planning and Highways Committee) under Section 119D of the 1980 Act.

19. Duty to assert and protect the rights of the public to use and enjoyment of highways under Section 130 of the 1980 Act.
20. Duty to serve notice of proposed action in relation to obstruction under Section 130A of the 1980 Act.
21. Power to apply for variation of order under Section 130B of the 1980 Act.
22. Power to authorise temporary disturbance of surface of footpath, bridleway or restricted byway under Section 135 of the 1980 Act.
23. Power to permit deposit of builder's skip on highway under Section 139 of the 1980 Act.
24. Power to license planting, retention and maintenance of trees etc. in part of highway under Section 142 of the 1980 Act and provision of trees and shrubs under Section 24 of the Greater Manchester Act 1981.
25. Power to authorise erection of stiles etc. on footpaths or bridleways under Section 147 of the 1980 Act.
26. Powers relating to the removal of things so deposited on highways as to be a nuisance under Section 149 of the 1980 Act.
27. Power to license works in relation to buildings etc. which obstruct the highway under Section 169 of the 1980 Act.
28. Power to consent to temporary deposits or excavations in streets under Section 171 of the 1980 Act.
29. Power to dispense with obligation to erect hoarding or fence under Section 172 of the 1980 Act.
30. Power to restrict the placing of rails, beams etc. over highways under Section 178 of the 1980 Act.
31. Power to consent to construction of cellars etc. under street under Section 179 of the 1980 Act.
32. Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators under Section 180 of the 1980 Act.
33. Power to extinguish certain public rights of way (subject to consultation with the Chair of the Planning and Highways Committee) under Section 32 of the Acquisition of Land Act 1981.
34. Duty to keep definitive map and statement under review under Section 53 of the Wildlife and Countryside Act 1981.

35. Power to include modifications in other orders under Section 53A of the Wildlife and Countryside Act 1981.
36. Duty under Section 53B of the Wildlife and Countryside Act 1981 to keep a register of prescribed information with respect to applications under Section 53(5) of the Wildlife and Countryside Act 1981.
37. Power to prepare map and statement by way of consolidation of definitive map and statement under Section 57A of the Wildlife and Countryside Act 1981.
38. Power to designate footpath as cycle track under Section 3 of the Cycle Tracks Act 1984.
39. Power to extinguish public right of way over land acquired for clearance under Section 294 of the Housing Act 1981.
40. Power to consider and (subject to consultation with the Chair of the Planning and Highways Committee) to make applications for an Order to authorise stopping up or diversion of highway under Section 247 of the Town and Country Planning Act. 1990.
41. Power to authorise stopping up or diversion of footpath, bridleway or restricted byway (subject to consultation with the Chair of the Planning and Highways Committee) under Section 257 of the Town and Country Planning Act 1990.
42. Power to extinguish public rights of way over land held for planning purposes (subject to consultation with the Chair of the Planning and Highways Committee) under Section 258 of the Town and Country Planning Act 1990.
43. Power to enter into agreements with respect to means of access under Section 35 of the Countryside and Rights of Way Act 2000.
44. Power to provide access in absence of agreement under Section 37 of the Countryside and Rights of Way Act 2000.
45. Power to grant a street works licence under Section 50 of the New Roads and Street Works Act 1991.

Environmental Protection

46. The inspection of the Authority's area to detect any statutory nuisance under Section 79 of the Environmental Protection Act 1990.
47. The investigation of any complaint as to the existence of a statutory nuisance under Section 79 of the Environmental Protection Act 1990.
48. The service of an abatement notice in respect of a statutory notice under Section 80 of the Environmental Protection Act 1990.
49. Duty to enforce Chapter 1 of the Health Act 2006 (Smoke-Free Premises,

Places and Vehicles) and regulations made under it pursuant to Section 10(3) of the Health Act 2006.

50. Power to authorise officers to act in matters arising under Chapter 1 of the Health Act 2006 (Smoke-Free Premises, Places and Vehicles) and regulations made under it pursuant to Section 10(5) of the Health Act 2006.
51. To exercise the Council's functions relating to fixed penalty notices pursuant to Paragraphs 13, 15 and 16 of Schedule 1 to the Health Act 2006 and the Smoke-Free (Vehicle Operators and Penalty Notices) Regulations 2007 (S.I. 2007/760).
52. Power to transfer enforcement functions to another enforcement authority pursuant to the Smoke-free (Premises and Enforcement) Regulations 2006 (S.I. 2006/3368).
53. To exercise the Council's powers to give notice to reduce the emission of dust etc. from building operations under Section 34 of the Greater Manchester Act 1981 ("the Local Act").
54. To exercise the Council's powers to order reduction of gas, vapour or fumes coming from chimneys under Section 36 of the Local Act.
55. To exercise the Council's powers to require owner to provide adequate means of lighting in habitable rooms under Section 48 of the Local Act.
56. To exercise the Council's powers in relation to trees impeding natural light to houses, shops and offices under Section 49 of the Local Act.
57. To exercise the Council's powers in relation to the prohibition of interference with bird traps authorised by the Council under Section 53 of the Local Act.

Health and Safety at work Functions

58. Functions under any of the "relevant statutory provisions" within the meaning of Part 1 (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.

Miscellaneous

59. Obtaining particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
60. To prepare and serve notices under Section 215(1) of the Town and Country Planning Act 1990.

EXECUTIVE FUNCTIONS

Highways

61. To approve the making of permanent and experimental traffic regulation orders, speed limits and on-street parking places orders and their implementation including associated engineering measures subject to:
 - (a) consultation with the Executive Member for Neighbourhood Services in all cases.
 - (b) the referral of objections / representations received in relation to proposed orders to the Deputy Chief Executive (Growth and Neighbourhoods).
62. To approve the construction of road humps and other traffic calming measures subject to:
 - (a) consultation with the Executive Member for Neighbourhood Services in all cases.
 - (b) the referral of objections / representations received in response to proposals for road humps to the Deputy Chief Executive (Growth and Neighbourhoods).
63. To make arrangements for the establishment, alteration and removal of zebra crossings.
64. To consider and to make applications for Orders under Sections 248, 249, 251, 253 to 256, 258, 259 and 261 of the Town and Country Planning Act 1990 and Section 48 of the Civil Aviation Act 1982 and to make orders under Section 294 of the Housing Act 1985.
65. To undertake schemes to improve road safety and pedestrian and cycling facilities.
66. In consultation with the Executive Member for Neighbourhood Services to approve the construction, alteration and removal of highway improvement schemes, including the making of agreements for the execution of works under Section 278 of the 1980 Act.
67. To accept the dedication of land as highways (including for highway widening) and to adopt highways and to approve the entering into of agreements for these purposes.
68. To approve the entering into of Walkway Agreements.
69. To exercise the Council's functions under Part 2 of the Traffic Management Act 2004.
70. To prepare and publish the Rights of Way Improvement Plan.
71. To approve the making of applications to the magistrates court under Section 116 of the Highways Act 1980 for orders stopping up and/or diverting

- highways, subject to consultation with the Executive Member for Neighbourhood Services, and to take such steps considered appropriate to secure the making of such orders for which no further consultation with the Executive Member is required.
72. To make arrangements for the provision of and authorise the provision of road and directional signing (except temporary direction signing).
 73. To make arrangements for the provision of school crossing patrols in consultation with the Executive Member for Children's Services.
 74. To respond to consultation regarding the siting and erection of bus stops and bus shelters.
 75. To agree bus timing points.
 76. To make application to the Traffic Commissioner for the imposition of traffic regulation conditions in respect of local services.
 77. To make objections / representations in relation to the proposed grant of or changes to heavy goods vehicle operators' licences.
 78. To undertake maintenance and repair of bridges and other structures.
 79. To take action in relation to retaining walls near streets.
 80. To determine and issue licences for bridges over the highway.
 81. To respond to consultation on the highway / traffic implications of planning proposals.
 82. To make minor amendments to the details of approved highways or traffic related proposals.
 83. To maintain and repair highways within approved budgets (with the exception of highway bridges and other structures).
 84. To be responsible for the control of work and the placing of items in, over, under, on or adjacent to highways and streets including the taking of enforcement action.
 85. To manage the Council's rights of way network including the exercise of the Council's functions in respect of such matters.
 86. To exercise the Council's functions under the New Roads and Street Works Act 1991 (with the exception of Section 50 of that Act).
 87. To make temporary traffic orders and issue temporary notices under the Road Traffic Regulation Act 1984 and to make Orders under the Town Police Clauses Act 1847 and to carry out associated works.

88. To exercise the Council's functions in relation to the naming and numbering of streets and their renaming and renumbering, including the exercise of the Council's powers in relation to Street Numbers under Section 22 of the Greater Manchester Act 1981.
89. To provide street trees and highway grass verges and their removal and replacement.
90. To determine applications for street performance / displays etc.
91. To determine applications for Homewatch / Business Watch signs.
92. To keep and update the Council's list of adopted streets.
93. To carry out urgent repairs to private streets or to require such urgent repairs to be carried out.
94. To provide or approve the provision of temporary directional signing for events.
95. To carry out improvements to private forecourts where this would promote the environmental well-being of the area when the Council undertakes adjoining highway improvement schemes.
96. To prepare, publish, review and make amendments to the Council's Rights of Way Improvement Plan.
97. To establish and appoint members to the Local Access Forum under Section 94 of the Countryside and Rights of Way Act 2000, in consultation with the Executive Member for Neighbourhood Services.
98. To exercise the Council's power in relation to the recovery of street works charges where the owner is unknown under Section 21 of the Greater Manchester Act 1981 ("the Local Act").
99. To exercise the Council's power in relation to the prohibition of parking of goods vehicles in residential streets under Section 26 of the Local Act.
100. To exercise the Council's power in relation to the control of verges under Section 27 of the Local Act.
101. To exercise the Council's power in relation to the temporary stoppage of footpaths and bridleways under Section 28 of the Local Act.
102. To exercise the Council's power in relation to the prohibition of the riding of pedal cycles in any pedestrian area under Section 164 of the Local Act.
103. Subject to consultation with the City Solicitor to enter into Agreements in relation to any of the above matters.

Crime and Disorder Strategy

104. To implement the Crime and Disorder Strategy and to discharge or arrange for the discharge of the Council's functions in relation to reduction of crime and disorder and antisocial behaviour.

Without prejudice to the generality of item 104 above:

105. To discharge the functions of the Council in relation to Anti-Social Behaviour Orders under Section 1 of the Crime and Disorder Act 1998.
106. To discharge (in consultation with the Director of Children's Services) the functions of the Council in relation to local child curfew schemes under Section 14 of the Crime and Disorder Act 1998.
107. To discharge the functions of the Council in relation to Mediation Services.

Waste and Cleansing

108. To exercise the functions of the Council under Part II of the Environment Protection 1990.

Without prejudice to the generality of item 108 above;

109. To be responsible for community based clean up campaigns.
110. To be responsible for litter abatement and environmental education.
111. To liaise with the Chief Executive, the Waste Disposal Authority and other local authorities in the preparation and revision by the Waste Disposal Authority of waste disposal plans.
112. To manage the storage, collection and transportation for final disposal of domestic, commercial and industrial refuse, certain classes of hazardous wastes, liquid wastes, bulky items of waste, clinical waste, garden refuse and building materials.
113. To arrange for the provision, hire or sale of refuse receptacles, the provision, hire or sale of receptacles for clinical waste, and the provision of litter bins.
114. To participate in the recycling of waste materials.
115. To purchase refuse containers, compactors and skips in accordance with the needs of the service.
116. To serve statutory notices in respect of the removal of abandoned motor vehicles and the collection, removal and disposal of unwanted or abandoned motor vehicles.
117. To serve statutory notices in respect of the removal of waste from land.

118. To discharge the functions of the Council in relation to the control of waste and litter generally and including under Section 2 of the Refuse Disposal (Amenity) Act 1978, Section 33(1)(a) of the Environmental Protection Act 1990 and Section 87 of the Environmental Protection Act 1990.
119. To serve statutory notices in respect of the removal of litter from land.
120. To remove refuse abandoned on land in the open air.

Housing

121. To exercise the functions of the Council in relation to conditions associated with private sector and social residential accommodation and facilities (excluding accommodation owned by the Council), including but not limited to powers derived from the following statutes:
 - a. Public Health Act 1936
 - b. Public Health Act 1961
 - c. Prevention of Damage by Pests Act 1949
 - d. Greater Manchester Act 1981
 - e. Local Government (Miscellaneous Provisions) Act 1976 and 1982
 - f. Building Act 1984
 - g. Environmental Protection Act 1990
 - h. The Water Act 1989
 - i. Health and Safety at Work Act 1974
 - j. Food Safety Act 1990
122. To authorise the City Solicitor to make, vary and revoke Gating Orders.

Environmental Health

123. To exercise the Council's functions as food authority under EU Food Hygiene Regulations, the Food Safety Act 1990 and the Food Hygiene (England) Regulations 2006 (S.I. 2006/ No. 14).

Without prejudice to the generality of item 123 above;

124. To exercise the Council's functions in relation to the grant of approvals to establishments handling, preparing or producing products of animal origin for which requirements are laid down in Regulation (EC) 853/2004.
125. To requisition information in connection with environmental health functions generally and including under Section 93 of the Control of Pollution Act 1974, Section 19 of the Environmental Protection Act 1990 and Section 108 of the Environment Act 1995.
126. To exercise the Council's functions under The Cattle Identification Regulations

- 2007 (S.I. 2007/ No. 539).
127. To exercise the Council's functions under the Pigs (Records, Identification and Movement) Order 2011 (S.I. 2011/ No. 2154).
 128. To exercise the Council's functions under the Animal By-Products (Enforcement) (England) Regulations 2011 (S.I. 2011 No. 881).
 129. To operate disinfection and sharps collection services.
 130. To operate a Dog Control Service (including the control of stray dogs).
 131. To exercise the Council's powers in relation to the control of the carriage and storage of waste food under Section 35 of the Greater Manchester Act 1981 ("the Local Act").
 132. Powers of entry under Section 38 of the Local Act for enforcement under Prevention of Damage by Pests Act 1949.
 133. To exercise the Council's powers in relation to the control of stray dogs under Section 42 of the Local Act.
 134. To exercise the Council's powers in relation to the temporary repair of defective premises under Section 44 of the Local Act.
 135. To exercise the Council's powers in relation to urgent repairs to water, gas and electricity apparatus under Section 47 of the Local Act.
 136. To take action for the seizure and retention, or destruction, or disposal of animals in circumstances where emergency action is warranted.
 137. To deal with applications relating to the control of noise on construction etc., sites.
 138. To exercise powers relating to the prior approval of new furnaces and to the height of chimneys.
 139. To exercise powers and regulations made relating to the control and measurement of grit and dust.
 140. To exercise powers relating to the cleansing and disinfection of premises and the temporary removal of occupants.
 141. To take action necessary for the removal of asbestos.
 142. To discharge the functions of the Council under the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2000 No. 2853).

Street Scene Services (including Grounds Maintenance)

143. To discharge the functions of the Council relating to grounds maintenance, street cleansing, arboriculture services and the removal of graffiti etc.
144. To arrange for sweeping of highways, streets and passages, the removal of fallen leaves, the removal of litter from landscaped areas, and the emptying of litter bins.
145. To be responsible for grounds maintenance functions (excluding schools).

Miscellaneous

146. To exercise the powers of the Council to control street trading under the Manchester City Council Act 2010.