

# Public Document Pack



## TRAFFORD COUNCIL

5 March 2013

Quay West,  
Trafford Wharf Road,  
Trafford Park, M17 1HH

Dear Councillor,

Your attendance is requested at a meeting of the Council of the Borough of Trafford on **WEDNESDAY, 13 MARCH 2013, at 7.00 PM** in the **COUNCIL CHAMBER, SALE TOWN HALL, SALE WATERSIDE, SALE, M33 7ZF**, for the transaction of the business set out below:

- |  | <b>Pages</b> |
|--|--------------|
| <b>1. Minutes</b>  |              |
| To approve as a correct record the Minutes of the Meeting of the Council held on 20 February 2013 for signature by the Mayor as Chairman.  | 1 - 8        |
| <b>2. Announcements</b>  |              |
| To receive any announcements from the Mayor, Leader of the Council, Members of the Executive, Chairmen of Scrutiny Committees and the Head of Paid Service.                                |              |
| <b>3. Questions By Members</b>   |              |
| This is an opportunity for Members of Council to ask the Mayor, Members of the Executive or the Chairman of any Committee or Sub-Committee a question on notice under Procedure Rule 10.2. |              |
| <b>4. Health and Social Care Act 2012 - Constitutional Changes</b>   |              |
| To consider a report of the Acting Director of Legal and Democratic Services.  | 9 - 20       |
| <b>5. Adoption of New Byelaws to Regulate the Practice of Acupuncture, Tattooing, Semi-Permanent Skin-Colouring, Cosmetic Piercing and Electrolysis.</b>                                   |              |
| To consider a joint report of the Executive Member for Highways and Environment.   | 21 - 32      |

6. **Greater Manchester Joint Minerals Development Plan Document (JMDDP): Inspector's Report and Adoption**

To consider a report of the Executive Member for Economic Growth and Prosperity recommended to the Council by the Executive at its meeting held on 4 March 2013.

33 - 36

*Please note: There are a number of extensive appendices to this report including the Final GMJMDDP document and 4 Trafford Maps which are not being circulated in hard copy, but which will be posted on the Council's website with this agenda. Alternatively, all of the GM Minerals Development Plan Documents are available to view on a separate website at: [http://www.gmineralsplan.co.uk/docs.html#Post\\_Examination](http://www.gmineralsplan.co.uk/docs.html#Post_Examination) .*

7. **Motions**

To consider the following motions submitted in accordance with Procedure Rule 11:

a) Motion submitted by the Labour Group – Locality Boards

This Council is mindful of increasing disquiet from Trafford's community groups and panels regarding the format, membership and responsibilities to be delegated to new Locality Boards being introduced by the Trafford Strategic Partnership from April 2013.

This Council is also concerned that existing representative bodies such as Town or Parish Councils and many Elected Members are being excluded in this new model. It is also concerning that there doesn't appear to be a commitment for all the Locality Partnerships to be held in open public session. There are real concerns also that there are no defined funding streams which will enable the Partnership Boards to operate effectively

This Council therefore calls for a temporary halt on the introduction of the Locality Partnership Boards until such time that the community concerns and Parish Council concerns and technical / democratic / financial issues are fully address to the satisfaction of all Members of this Council, and that a report be brought back to Council at the next full Council which addresses all of these concerns.

b) Motion submitted by the Labour Group – Fire Service

This Council has deep concern with regard to the letter sent out by Brandon Lewis, Communities and Local Government Parliamentary Under Secretary (Minister for Fire and Rescue Service) where he promotes a proposal to enable Fire and Rescue Authorities to contract out the full range of their services to a suitable provider, including a public service mutual.

Cont'd ...

Clearly if this became law it would open the doors for the privatisation of the Fire and Rescue Service. We should not be introducing the profit motive into our emergency services. We pay tribute to the bravery and sacrifice of those on the front line, shareholder dividends have no place in that covenant.

In light of the above this Council calls on the Government to abandon any plans to privatise our Fire and Rescue Services now and in the future.

c) Motion submitted by the Labour Group – Mersey Valley

On 5 December 2011 the following resolution was made by this Council:

‘That in light of public concern with regard to the deterioration of Sale Water Park and its environment, we call on the Council to continue a wide ranging review of its existing maintenance and management of the Water Park, with a view to implementing a significant maintenance improvement for Sale Water Park’.

There continues to be very considerable public concern at the continued deterioration of the Water Park and lack of investment designed to improve the facilities and environment currently exacerbated by the works being carried out to extend the Metrolink system and this Council’s announcement at the budget council meeting of their intention to cease contribution to the Mersey Valley Partnership from 2014 to save £117,000 and Groundforce cuts of £1.2 million over the next two years which includes the loss of 10 members of the Groundforce staff .

It is quite clear the resolution agreed by this body on 5 December 2011 has not led to significant visual maintenance improvements and that unless urgent action is taken to remedy this, longer term the Council will face substantial costs to address maintenance issues impacting upon public health and safety.

We therefore call on the Council, in the interests of all Sale Water Park users and visitors, to put right the broken promises of December 2011 and publish plans detailing the action that will be taken to ensure Sale Water Park and the surrounding Mersey Valley is protected for the benefit of Trafford residents and visitors from outside the area.

d) Motion submitted by the Conservative Group – Grammar and High School System

This Council recognises the considerable dedication and achievement of the teachers and pupils in Trafford's schools culminating in a Grammar and High School system which is ranked one of the best in the country for academic achievement. As such Trafford's primary school pupils are fortunate in being able to choose from excellent high and grammar schools.

This Council believes that all children should be given an equal footing, regardless of which primary school they come from, to enter the school of their choice. Furthermore the ability to obtain a place at a grammar school should not be determined by parents' ability to pay for specialist coaching.

Therefore this Council agrees to support primary schools that wish to provide the option (outside of the normal curriculum) of familiarisation with local grammar school entrance exams, for those children who seek a grammar school place. This Council agrees to offer advice and guidance to those schools that may wish to offer familiarisation to their pupils on this basis.

e) Motion submitted by the Conservative Group – New Health Deal for Trafford

This Council notes that the Secretary of State for Health, Jeremy Hunt MP, has recently asked the Independent Reconfiguration Panel (IRP) to conduct an initial review of the referral by the Joint Health Scrutiny Committee of the New Health Deal for Trafford proposals.

This Council considers that, to ensure that local residents' and Health Scrutiny's views are fully considered, a full review of the proposals is required. This Council also believes, in view of the sensitivities around the proposal, that there should be no delay in setting up and determining the review.

f) Motion submitted by the Labour Group – The Welfare Reform Act

This Council is concerned that:

The Welfare Reform Act will have devastating consequences on Trafford residents, increasing poverty, uprooting families, disrupting communities and taking millions of pounds out of the local economy.

We further note that:

The Housing Benefit rules on under occupancy and the introduction of Universal Credit will have a massive impact on social housing providers, cutting the amount of money they have to invest in homes and services to tenants.

Council commends the work that has been done so far by registered social housing providers, the Revenue and Benefits Service, voluntary, resident and community organisations to identify potential problems and raise awareness in those tenants who will be affected.

Council calls for this work to continue.

Cont'd ...

The Council:

- Calls on the Coalition Government to withdraw these punitive and short-sighted plans.
- Calls on Trafford Tories to stand up for Trafford people and join us in the call to withdraw these reforms.
- Asks the Chief Executive through the executive and scrutiny process to report back to Council regularly on the anticipated impact of these changes and what further action is being taken to alleviate the pressure on affected households.

g) Motion submitted by the Labour Group – Nursing Staff Numbers

This Council is extremely concerned about the falling number of nursing staff and nursing training places. As more and more nurses are lost it is becoming increasingly urgent that the Government take immediate action to address this growing crisis. This trend must be reversed if the Government is to respond to the recommendations of the Francis inquiry. Should this trend continue we are set to lose 12,000 nurses over the course of this parliament, the biggest impact being felt in A&E departments and with the care of the frail and elderly. This will continue to impact adversely on Trafford residents and across the Country if the Government do not change course.

This Council calls for immediate intervention from Government to halt this worrying downward trend in nurse numbers to ensure patient care and safety is at the heart of our NHS.

Yours sincerely,



**THERESA GRANT**

Chief Executive

Membership of the Council

Councillors Mrs. P. Young (Mayor), D. Butt (Deputy Mayor), D. Acton, S. Adshead, S. Anstee, Dr. K. Barclay, J. Baugh, J. Bennett, Miss L. Blackburn, R. Bowker, C. Boyes, Mrs. A. Bruer-Morris, J. Brophy, B Brotherton, D. Bunting, C. Candish, R Chilton, M. Colledge, Mrs. L. Cooke, M. Cordingley, M. Cornes, J. Coupe, Mrs. P. Dixon, A. Duffield, Mrs. L. Evans, T. Fishwick, M. Freeman, P. Gratrix, J. Harding, D. Higgins, J. Holden, M. Hyman, C. Hynes, D. Jarman, P. Lally, J. Lamb, J. Lloyd, E.H. Malik, A. Mitchell, P. Myers, D. O'Sullivan, I. Platt, K. Procter, D. Quayle, J.R. Reilly, Mrs. J. Reilly, B. Rigby, T. Ross, B. Sharp, B. Shaw, J. Smith, E.W. Stennett, N. Taylor, S. Taylor, L. Walsh, Mrs. V. Ward, A. Western, D. Western, K. Weston, M. Whetton, Mrs. J. Wilkinson, A. Williams and M. Young

Further Information

For help, advice and information about this meeting please contact:

Ian Cockill, Democratic Services Officer

Tel: 0161 912 1387

Email: [ian.cockill@trafford.gov.uk](mailto:ian.cockill@trafford.gov.uk)

This Summons was issued on **Tuesday, 5 March 2013** by the Legal and Democratic Services Section, Trafford Council, Quay West, Trafford Wharf Road, Trafford Park, Manchester, M17 1HH.

# Agenda Item 1

## TRAFFORD BOROUGH COUNCIL

20 FEBRUARY 2013

### PRESENT

The Worshipful the Mayor (Mrs. P. Young), in the Chair.

D. Butt	Mrs. P. Dixon	K. Procter
D. Acton	A. Duffield	D. Quayle
S. Adshead	Mrs. L. Evans	J.R. Reilly
S. Anstee	T. Fishwick	Mrs. J. Reilly
Dr. K. Barclay	M. Freeman	B. Rigby
J. Baugh	P. Gratrix	T. Ross
J. Bennett	J. Harding	B. Sharp
Miss L. Blackburn	D. Higgins	B. Shaw
R. Bowker	J. Holden	J. Smith
C. Boyes	M. Hyman	E.W. Stennett
Mrs. A. Bruer-Morris	C. Hynes	N. Taylor
B Brotherton	D. Jarman	S. Taylor
D. Bunting	P. Lally	L. Walsh
C. Candish	J. Lamb	Mrs. V. Ward
R Chilton	J. Lloyd	A. Western
M. Colledge	E.H. Malik	M. Whetton
Mrs. L. Cooke	A. Mitchell	Mrs. J. Wilkinson
M. Cordingley	P. Myers	A. Williams
M. Cornes	D. O'Sullivan	M. Young
J. Coupe		

### In attendance

Chief Executive	Ms. T. Grant
Corporate Director Children and Young People's Service	Mrs. D. Brownlee
Corporate Director Economic Growth & Prosperity	Mrs. H. Jones
Corporate Director Environment Transport and Operations	Mr. P. Molyneux
Corporate Director Transformation and Resources	Mrs. W. Marston
Director of Finance	Mr. I. Duncan
Acting Director of Legal and Democratic Services	Ms. J. Le Fevre
Head of Financial Management	Mr. I. Kershaw
Head of Workforce and Core Strategy	Ms. L. Hooley
Democratic Services Manager	Mr. P. Forrester
Democratic Services Officer	Mr. I. Cockill

### APOLOGIES

Apologies for absence were received from Councillors J. Brophy, I. Platt, D. Western and K. Weston.

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**68. MINUTES**

RESOLVED: That the Minutes of the Meeting of the Council held on 23 January 2013, be approved as a correct record and signed by the Chairman.

**69. ANNOUNCEMENTS**

(a) Mrs. Daphne Golding

The Council stood in silence as a mark of respect to former Mayoress Daphne Golding who had passed away in hospital on 27 January aged 85 years. Mrs. Golding was the widow of John Golding and they were the Mayor and Mayoress of the Borough in 1987/88.

(b) Scrutiny Committee

The Chairman of Scrutiny Committee, Councillor Shaw, provided an update on the work of the Scrutiny Committee and given the business of Council that evening, again thanked Members and officers for their support to Budget Scrutiny. Scrutiny Members had made a number of recommendations in relation to the draft budget and the responses were considered at Scrutiny Committee on 6 February 2013. The action plan would come back to the Scrutiny and Health Scrutiny Committees at a later stage to ensure that the recommendations were monitored effectively.

In respect of the review of domestic violence, Councillor Shaw announced that the Executive had accepted Scrutiny Members' recommendation to establish a coordinating Executive Member and it would become part of the Community Health and Wellbeing Portfolio. Councillor Shaw would be meeting Councillor Dr. Barclay, the Executive Member on 4 March 2013 to discuss this further.

(c) Health Scrutiny Committee

Councillor Lloyd, Chairman of Health Scrutiny Committee provided an update on the work of the Health Scrutiny Committee since the last Council meeting, advising that the referral to the Secretary of State for Health in relation to the New Health Deal for Trafford had been sent and that an acknowledgement was awaited. Members were also aware that a Peer Review on the Council's safeguarding arrangements had recently taken place and it was hoped that a meeting of Scrutiny Members would be convened to consider the Executive's response once published.

**70. QUESTIONS BY MEMBERS**

The Mayor reported that a question had been received under Procedure Rule 10.2.



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Councillor Boyes asked the following question for which notice had been given:

*“Given that empty shops detract from the experience of shopping, what are the Council doing to encourage businesses to invest in Altrincham, Sale, Stretford and Urmston?”*

Councillor Hyman, Executive Member for Economic Growth and Prosperity reported that the Council had launched an interest free loans scheme as an incentive for businesses seeking to establish a presence in the Borough’s Town Centre’s, with £350,000 of funding made available to revive vacant properties. The Council had allocated £250,000 to be split equally amongst its town centres, whilst an additional £100,000 of funding from the Government’s High Street Innovation Fund had been earmarked for Altrincham. Businesses could apply for funding of between £1,000 and £10,000.

**71. PROPOSAL TO RELOCATE 6 LICENCED PITCH SITES FROM SIR MATT BUSBY WAY/WHARFSIDE WAY, TRAFFORD PARK TO NEW POSITIONS IDENTIFIED ON VICTORIA PLACE, TRAFFORD PARK**

The Corporate Director Environment, Transport and Operations submitted a report seeking approval to relocate 6 existing Licenced Pitch sites, known as Licenced Pitch numbers 3 to 8, to Victoria Place, off Trafford Wharf Road, Trafford Park.

RESOLVED –

- (1) That the relocation of existing licenced pitch traders be approved because there is not enough space in the street for the licence-holders to engage in the trading permitted by the licence without causing undue interference or inconvenience to persons using the street as a result of a recently approved Hotel and Supporters Club development.
- (2) That the Council resolves to relocate the existing pitches to positions noted within the schedule attached to the report, with effect from 21 March 2013 and therefore the junction of Waters Reach and Victoria Place shall be licenced streets to the extent of the new pitches referred to above otherwise, to the extent that they are not already so designated, they shall be prohibited streets.

**72. BUDGET 2013/2014**

(Note: PROCEDURAL ARRANGEMENTS - In respect of the main item of business on the agenda, the Mayor announced that the Leader of the Council (or his nominee) would have a maximum of 15 minutes to make the initial speech and a further maximum of 15 minutes to finish the debate. The Leaders of the Labour and Liberal Democrat Groups (or their respective nominees) would each have a maximum of 15 minutes to make their initial speeches and a further maximum of 5 minutes to wind up on behalf of their respective Groups. The Mayor also outlined

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the approach for dealing with amendments, should any be made to the main motion, and indicated that the mover of an amendment would have 5 minutes, whilst the time for all other speeches would be restricted to 3 minutes.)

The Executive Member for Finance presented a number of reports setting out the proposed budget for the forthcoming year, together with the recommendations from the Executive meeting held earlier that evening.

It was moved and seconded that the Executive's recommendations for the budget, circulated to Members at the meeting, be approved.

Councillors Brotherton and Bowker responded to the Motion on behalf of the Labour and Liberal Democrat Groups respectively, after which the proposals were debated by the Council.

(Note: During the debate on the Motion, the time being 8.35 p.m. the Mayor indicated that the length of speeches would now be restricted to a maximum of two minutes per speaker. With the time being 8.50, the Mayor further reduced speeches to 1 minute.)

In accordance with procedures agreed at the outset of the debate, the Political Group Leaders summarised the essential views of their respective group. The Motion was then put to the vote and declared carried.

RESOLVED -

- (1) That the Council approves the overall 2013/14 budget at £158.947 million, a decrease of £(11.063) million, (6.5)%, on a like for like basis over the current year's budget as per the budget report.
- (2) That there will be no increase in the Council Tax level for Trafford related services in 2013/14, and agrees the calculation and Council Tax Requirement for 2013/14 as set out in (9) – (13) below.
- (3) That the minimum level of reserves be set at £6 million.
- (4) That the fees and charges be set per the booklet available alongside this report on the Council's website, including specifically:
  - an increase in the weekly charge for Allotment fees in 2014/15 (12 month notice period is required);
  - cease contributions to Mersey Valley and Bollin Valley Partnerships in 2014/15 (12 month notice period required).
- (5) That, as a continuation of previously agreed delegated powers, the Director of Finance, in consultation with the relevant Corporate Director, be delegated

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authority to amend fees and charges during 2013/14 in the event of any change in the rate of VAT, as appropriate.

- (6) That the overall Capital Investment Programme level for 2013/16 of £77.0 million be approved.
- (7) That the Prudential Borrowing Indicators contained within the Treasury Management Strategy 2013/16 be approved.
- (8) That the report of the Director of Finance on the Robustness of the Budget Estimates and Adequacy of General Reserves be noted.
- (9) That it be noted that on 28<sup>th</sup> January 2013 the Council calculated:
- (a) the Council Tax Base 2013/14 for the whole Council area as 70,991 [Item T in the formula in Section 31B(3) of the Local Government Finance Act 1992, as amended (the "Act")] and;
  - (b) 1,331 for dwellings in the Parish of Partington to which Parish Precepts relates.
- (10) That the Council Tax Requirement for the Council's own purposes for 2013/14 (excluding Parish precepts) be £78,461,383.
- (11) That the Council agrees the calculation of the Aggregate Amounts for the year 2013/14 in accordance with Sections 31 to 36 of the Act, as follows:
- (a) £423,384,701 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2) of the Act taking into account all precepts issued to it by Parish Councils.
  - (b) £344,866,750 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act.
  - (c) £78,517,951 being the amount by which the aggregate at 11(a) above exceeds the aggregate at 11(b) above, calculated by the Council in accordance with Section 31A(4) of the Act as its Council Tax requirement for the year. (Item R in the formula in Section 31A(4) of the Act).
  - (d) £1,106.03 being the amount at 11(c) above (Item R), all divided by Item T (9(a) above), calculated by the Council, in accordance with Section 31B(1) of the Act, as the basic amount of its Council Tax for the year (including Parish precepts).

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- (e) £56,568 being the aggregate amount of all special items (Parish precepts) referred to in Section 34(1) of the Act, as detailed below:

**Parish Council Precept**

Parish/Town Council	2012/13			2013/14			C Tax Increase
	Tax Base	Precept £	Council Band D (£)	Tax Base	Precepts £	Council Band D (£)	
Partington	2,079	88,358	42.50	1,331	56,568	42.50	0.0%
<b>TOTAL /</b>	<b>2,079</b>	<b>88,358</b>	<b>42.50</b>	<b>1,331</b>	<b>56,568</b>	<b>42.50</b>	<b>0.0%</b>

- (f) £1,105.23 being the amount at 11(d) above less the result given by dividing the amount at 11(e) above by Item T (9(a) above), calculated by the Council, in accordance with Section 34(2) of the Act, as the basic amount of its Council Tax for the year for dwellings in those parts of its area to which no Parish precept relates.

- (g) £1,147.73 Parish of Partington being the amounts given by adding to the amount at 11(f) above the amounts of the special item or items relating to dwellings in those parts of the Council's area mentioned at 11(e) above divided by the amount at 9(b) above, calculated by the Council, in accordance with section 34(3) of the Act, as the basic amounts of its council tax for the year for dwellings in those parts of its area to which one or more special items relate.

- (12) That it be noted that for the year 2013/14 the Office of the Police and Crime Commissioner for Greater Manchester and Greater Manchester Fire and Rescue Authority have issued precepts to the Council in accordance with Section 40 of the Local Government Finance Act 1992, for each category of dwellings in the Council's area as indicated in the table set out in (13) below.
- (13) That the Council, in accordance with Sections 30 and 36 of the Local Government Finance Act 1992, hereby sets the aggregate shown in the tables below as the amounts of Council Tax for 2013/14 for each part of its area and for each of the categories of dwellings:

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**Valuation Bands**

<b>Council Tax Schedule</b>	<b>Band A £</b>	<b>Band B £</b>	<b>Band C £</b>	<b>Band D £</b>	<b>Band E £</b>	<b>Band F £</b>	<b>Band G £</b>	<b>Band H £</b>
<b>Trafford Council</b>	736.82	859.62	982.43	1,105.23	1,350.84	1,596.44	1,842.05	2,210.46
<b>GM Police Authority</b>	99.55	116.15	132.74	149.33	182.51	215.70	248.88	298.66
<b>GM Fire Authority</b>	38.43	44.83	51.23	57.64	70.45	83.26	96.07	115.28
<b>Sub total</b>	<b>874.80</b>	<b>1,020.60</b>	<b>1,166.40</b>	<b>1,312.20</b>	<b>1,603.80</b>	<b>1,895.40</b>	<b>2,187.00</b>	<b>2,624.40</b>
<b>Partington</b>								
Parish only	28.33	33.06	37.78	42.50	51.94	61.39	70.83	85.00
Parish & District only	765.15	892.68	1,020.21	1,147.73	1,402.78	1,657.83	1,912.88	2,295.46
<b>Aggregate of Council Tax requirements (incl. Police &amp; Fire)</b>	<b>903.13</b>	<b>1,053.66</b>	<b>1,204.18</b>	<b>1,354.70</b>	<b>1,655.74</b>	<b>1,956.79</b>	<b>2,257.83</b>	<b>2,709.40</b>

**73. MOTION SUBMITTED BY THE LABOUR GROUP**

The Mayor informed Members that the Motion as set out on the Council Summons had been submitted in accordance with Procedure Rule 11.

[Note: Prior to the debate on this item, the time being 9.18 p.m., the Mayor indicated that the proposer of the Motion would be permitted 3 minutes whilst all other speeches would be limited to a maximum of two minutes per speaker.]

It was moved and seconded that:

This Council supports the comments of the Local Government Association Chairman that Local Government has borne the brunt of the cuts to public spending and that further severe cuts will be unsustainable.

The level of cuts in Trafford are savage and have resulted in closures of children centres, day care services, elderly people's homes, with severe cuts in youth and children services, libraries, elderly peoples services, and services to people with disabilities, and much more, all of which are having a devastating impact for people and our communities.

Economic Experts - the Institute for Fiscal Studies have given dire warnings about the economic direction of the Government and that the Chancellor will

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have to borrow a further £64 billion more than planned this next year. A sure sign that the Government Austerity plans are just not working.

This Council therefore resolves to campaign for a change in economic direction, and a need for Government to understand the increasing difficulty that local authorities face in protecting front line essential services in Trafford and elsewhere. The campaign should be badged as a "Fair Deal for Councils".

[Note: During the debate on the Motion, the time being 9.24 p.m., the Mayor indicated that speeches would now be limited to a maximum of one minute per speaker.]

The Motion was put to the vote and declared lost.

The meeting commenced at 7.00 pm and finished at 9.29 pm

(Note: At the conclusion of the formal meeting of the Council, an informal meeting was held to extend an invitation to:

Councillor Dylan Butt to be the Mayor of the Borough of Trafford for 2013/14;

and

Councillor Ejaz Malik to be the Deputy Mayor of the Borough of Trafford for 2013/14.

The informal meeting concluded at 9.32 p.m.)

## TRAFFORD COUNCIL

Report to: Council  
Date: 13 March 2013  
Report for: Decision  
Report of: Acting Director of Legal and Democratic Services

### Report Title

**Health and Social Care Act 2012 – Constitutional Changes**

### Summary

The purpose of the report is to advise Members of the changes to the Council's Constitution required as a result of changes arising from the Health and Social Care Act 2012 that take effect from 1<sup>st</sup> April 2013.

The report refers to changes relating to the transfer of the public health function to the Council, the formal establishment of the Health and Wellbeing Board and revisions to health scrutiny regulations.

### Recommendations

1. That the Council notes the transfer of the Public Health function pursuant to the Health and Social Care Act 2012, along with related staff to the Local Authority with effect from 1<sup>st</sup> April 2013.
2. That the Council establish a Health and Wellbeing Board with the membership and terms of reference as set out in the report with effect from the 1<sup>st</sup> April 2013.
3. That the Council membership of the Health and Wellbeing Board as nominated by the Leader of the Council be agreed.
4. That the Council confirms that, with effect from 1<sup>st</sup> April 2013, responsibility for the scrutiny of health services continue to be discharged by the Health Scrutiny Committee and that the arrangements agreed by Council (Minute numbers 11 and 40 refer) be retained
5. That Council authorise the Acting Director of Legal and Democratic Services to make the necessary changes to the constitution in relation to.
  - the transfer of the Public Health function
  - the establishment of the Health and Wellbeing Board and
  - health scrutiny arrangements

Contact person for access to background papers and further information:

Name: Peter Forrester  
Extension: 1815

## Background Papers:

There are no background papers to this report

## Background Information

Relationship to Corporate Priorities	The transfer of public health functions are in line with the Council's priorities around health and well-being.
Financial	There are no financial issues arising from this report.
Legal Implications	The Legal implications and requirements to ensure lawful decision making from the 1st April 2013 are outlined in this report.
Equality/Diversity Implications	None
Sustainability Implications	None
Staffing/E-Government/Asset Management Implications	The transfer of public health will result in NHS staff transferring to the Local Authority.
Risk Management Implications	Consideration has been given to the implications of the transfer of contracts and other liabilities and the transfer of staff. A due diligence exercise in relation to these liabilities has been carried out
Health and Safety Implications	None

## **Background**

1. The Health and Social Care Act 2012 contains a number of provisions that will see Local authorities taking the lead for improving health and coordinating local efforts to protect the public's health and wellbeing.
2. The Act provides for the transfer of specific elements of the Public Health function to the local authority as well as the establishment of a Health and Wellbeing Board and revised arrangements for health scrutiny. The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 were issued on the 8th February 2013 which set out the specific requirements around the HWB and Health Scrutiny.
3. Much of the ground work around these changes has been carried out. Work on the transfer of public health has been on-going for some time and a shadow Health and Well-being Board has been in place since May 2012. New arrangements around Health Scrutiny were also put in place at the same time.
4. The public health function will be based in the Children, Families and Wellbeing Directorate which was created as a result of the merger of the Children and Young People's and Communities and Wellbeing Directorates.
5. The changes require a number of changes to the Council's constitution and these are set out below.



## **Public Health**

6. Section 12 of the Health and Social Care Act gives each relevant local authority a new duty to take such steps as it considers appropriate to improve the health of people in their area.
7. The Public Health Service will provide a wide range of services in the key area of Public Health. This is a new service for Trafford and involves the transfer of substantial health improvement duties on the 1 April 2013 from the NHS. The role is to commission a range of mandatory and other public health services to people aged 5 and over in Trafford and services (appendix A) that are designed to:
  - Improve significantly the health and wellbeing of the people of Trafford
  - Carry out health protection functions
  - Reduce health inequalities across the borough
  - Ensure the provision of healthcare advice
8. Work on the transfer of public health to the Council has been underway for some time. The Director of Public Health and his team will transfer to the Council on the 1<sup>st</sup> April. The public health grant allocation was announced in January in the sum of £10.171m to support public health related activity. The service will be hosted in the new Children, Families and Wellbeing Directorate
9. The transfer will require some constitutional changes and the Council is asked to agree to the following:
  - The role and responsibilities of the Director of Public Health and the specific delegations to the post holder and their team that may be required in addition to general officer delegations that are already included in the constitution (appendix A).
  - Changes to the role and responsibilities and scheme of delegation arising from the merger of the Children and Young People's and Community Wellbeing Directorates.
  - Changes to the Delegations to the Corporate Director of Children, Families and Wellbeing to reflect a strategic overview of the local authority's public health responsibilities and statutory responsibilities around children's and adults services (appendix A).
  - Amendments that are required to the Constitution to reflect the position of Director of Public Health as a statutory senior post (appendix A).
10. The Acting Director of Legal and Democratic Services will make the appropriate consequential amendments to the constitution arising from these changes.

## **Health and Well-being Board**

11. The Health and Social Care Act 2012 also establishes the Health and Wellbeing Board (HWB) as a statutory Committee of the Council from the 1<sup>st</sup> April 2013. The Act sets out requirements in relation to the membership, responsibilities and functions of the Board.
12. The Department of Health (DoH) issued regulations on the 8<sup>th</sup> February 2013 about the formal arrangements for the Health and Well-being Board and guidance

on the procedural arrangements for such Boards was issued by the LGA and Association of Democratic Services Officers (ADSO) on the 28<sup>th</sup> February.

13. The Act gives Health and Wellbeing Boards specific functions. These are a statutory minimum and further functions can be given to the boards in line with local circumstances. The statutory functions are:

- To prepare Joint Strategic Needs Assessments (JSNAs) and Joint Health and Wellbeing Strategies (JHWSs), which is a duty of local authorities and clinical commissioning groups (CCGs).
- To encourage integrated working between health and social care commissioners, including providing advice, assistance or other support to encourage arrangements under section 75 of the National Health Service Act 2006 i.e. lead commissioning, pooled budgets and/or integrated provision) in connection with the provision of health and social care services.
- To encourage close working between commissioners of health-related services and the board itself.
- To encourage close working between commissioners of health-related services (such as housing and many other local government services) and commissioners of health and social care services.

14. Other functions may be delegated by the council under section 196(2) of the Health and Social Care Act 2012 as appropriate.

15. The Health and Wellbeing Board is a statutory Committee of the Council. However, the regulations make provision for the disapplication and modification of certain enactments relating to local authority committees appointed under section 102 of the Local Government Act 1972. The aim is to provide local areas with the flexibility and freedom to shape their Health and Wellbeing Boards as best fits with local circumstances. In particular:

- Health and Wellbeing Boards will be free to establish sub-committees and delegate functions to them;
- voting restrictions have been lifted so that non-elected members of a Health and Wellbeing board (i.e. CCG representative, local Healthwatch, Directors of Public Health, Children's Services and Adult Social Services and any wider members) can vote alongside nominated elected representatives on the board.
- political proportionality requirements have also been lifted so that the question of political proportionality of Health and Wellbeing board membership is left to local determination.

16. The Council agreed to set up a Shadow HWB and approved Terms of Reference and membership at the meeting of Council held on 23<sup>rd</sup> May 2012. The Shadow Board opted for a small membership in line with the guidelines set out by the Department of Health. The membership of the board during 2012/13 was as follows:

- Executive Member for Community Health and Wellbeing
- Executive Member for Adult Social Services
- Executive Member for Supporting Children and Families
- Shadow Executive Member for Community Health and Wellbeing
- Non-Executive Member GM Cluster Board
- Corporate Director of Communities and Wellbeing \*

- Corporate Director of Children and Young People \*
- Director of Public Health \*
- Chair of Pathfinder Clinical Commissioning Group
- Nominated Director Pathfinder Clinical Commissioning Group
- Pathfinder Clinical Commissioning Group Lay Member
- Chair of LINK until such time that it becomes Health Watch

\* Must be appointed to HWB (note: at least one Councillor and one member of the CCG must be appointed. A member of the Healthwatch must also be appointed to the Board. The Council membership is nominated by the Leader of the Council)

17. The current arrangements provide for the Executive Member for Community Health and Wellbeing to chair the board and a nominated individual to serve as vice chair. There is provision that where a discussion has been held on a particular subject other relevant stakeholders have been invited to attend the board.

18. The arrangements for the Shadow HWB fall are in line with the regulations and it is not proposed to make any changes to these. In summary, the HWB will include the following features:

- Political proportionality requirements are disapplied.
- The membership include statutory and local choice appointments.
- All members of the Health and Wellbeing Board are able to vote.
- All voting members will be subject to the Council's Code of Conduct.
- The HWB is subject to the Council's arrangements around transparency of decision making and public access to information. It is also subject to requirements under the Freedom of Information, Equality and Data Protection Acts.

19. The establishment of a statutory HWB will require amendments to the Council Constitution and these are attached at appendix B. The changes are based on the existing membership and working arrangements for the Shadow Health and Wellbeing Board and include:

- amendments to Article 8 to reflect the establishment of the Health and Wellbeing board
- an addition to Part 3 'Responsibility for Functions' to reflect the membership and terms of reference of the Board

20. Other amendments will be required to Part 4 of the Council Procedure Rules to reflect issues of quorum, membership, voting rights as arise from regulations and Part 5 - Code of Conduct to reflect its extension to all members of the Board. The Acting Director of Legal and Democratic Services will make the appropriate consequential amendments to these sections.

## **Health Scrutiny**

21. New regulations in relation to health scrutiny were issued on 8th February which make provision for local authorities to review and scrutinise matters relating to the planning, provision and operation of the health service in their area. They replace the previous 2002 regulations on health scrutiny.

22. Under the new arrangements for health scrutiny, local authorities have greater flexibilities in how they discharge their health scrutiny functions. It is for the Council

to decide how they wish to deal with health scrutiny matters and they can delegate their responsibilities to Overview and Scrutiny Committees or other Committees (as opposed to the previous position which required the establishment of a Scrutiny Committee to deal with health scrutiny).

23. Certain elements of the previous regulations have been preserved but there are new obligations on NHS bodies, relevant health service providers and local authorities around consultations on substantial developments or variations to services to aid transparency and local agreement on proposals.
24. The Council reviewed its scrutiny arrangements in May and September 2012 and given the importance of health scrutiny established a separate Health Scrutiny Committee alongside a Scrutiny Committee (Minute numbers 11 and 40 refer). The Council also took account of the statutory powers which enable a scrutiny committee to refer a proposed substantial variation in service delivery to the Secretary of State. The Council put arrangements in place that any intended referral by the Health Scrutiny Committee to the Secretary of State must also be agreed by the Chairman of the Scrutiny Committee.
25. It is recommended that the arrangements put in place for health scrutiny be retained and that any constitutional changes required as a consequence of the new regulations and subsequent guidance be made by the Acting Director of Legal and Democratic Services.

### **Consultation on Changes**

26. Before making any recommendations or suggesting amendments to the Constitution the Monitoring Officer is required to consult the Standards Committee, the Scrutiny Committee and the Executive under article 15 of part 2 of the Constitution.
27. The Executive met on the 4th March and made no comments on the proposals set out in the report.
28. There are no scheduled meetings of Scrutiny Committees so the Chairmen and Vice Chairmen were consulted under urgent business. Any issues raised will be reported at Council.
29. The Standards Committee is scheduled to meet on the 6<sup>th</sup> March and any comments will be reported at Council.

## APPENDIX A – TRANSFER OF PUBLIC HEALTH

### PART 3 - SCHEME OF DELEGATION TO OFFICERS

<b>DIRECTOR OF PUBLIC HEALTH</b>	<p>The holder of the post of Director of Public Health shall be responsible for the management of the public health function within the Children, Families and Well-being Directorate and the discharge of the statutory responsibilities of the Director of Public Health. This includes:</p> <ul style="list-style-type: none"> <li>• Preparing the annual report on the health of the local population</li> <li>• Responsibility for all of the Council’s duties to take steps to improve public health</li> <li>• Responsibility for the delivery of any of the Secretary of State’s public health protection or health improvement functions that s/he delegates to local authorities, either by arrangement or under regulations – these include services mandated by regulations made under section 6C of the 2006 Act, inserted by section 18 of the 2012 Act.</li> <li>• Exercising the Council’s functions in planning for, and responding to, emergencies that present a risk to public health, their local authority’s role in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders.</li> <li>• Carrying out of such other public health functions as the Secretary of State specifies in regulations</li> <li>• Being responsible for the Council’s public health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications.</li> <li>• If the local authority provides or commissions a maternity or child health clinic, then regulations made under section 73A(1) will also give the Director of Public Health responsibility for providing Healthy Start vitamins (a function conferred on local authorities by the Healthy Start and Welfare Food Regulations 2005 as amended).</li> <li>• Being a member of the Health &amp; Well Being Board.</li> </ul> <p>The following mandatory and other public services will be carried out by the Director of Public Health</p>
<b>MANDATORY SERVICES</b>	
1. Appropriate access to sexual health services (ie., comprehensive sexual health services (including testing and treatment for sexually transmitted infections, contraception outside of the GP contract and sexual health promotion and disease prevention)	
2. Steps to be taken to protect the health of the population, in particular, giving the local authority a duty to ensure there are plans in place to protect the health of the population	
3. Ensuring NHS commissioners receive the public health advice they need	
4. The National Child Measurement Programme	
5. NHS Health Check assessment.	
<b>OTHER SERVICES</b>	
1. Tobacco control and smoking cessation services	
2. Alcohol and drug misuse services	
3. Public health services for children and young people aged 5-19 (including Healthy Child Programme 5-19) (and in the longer term all public health services for children and young people)	
4. Interventions to tackle obesity such as community lifestyle and weight management services	
5. Locally-led nutrition initiatives	
6. Increasing levels of physical activity in the local population	
7. Public mental health services	

OTHER SERVICES
8. Dental public health services
9. Accidental injury prevention
10. Population level interventions to reduce and prevent birth defects
11. Behavioural and lifestyle campaigns to prevent cancer and long-term conditions
12. Local initiatives on workplace health
13. Supporting, reviewing and challenging delivery of key public health funded and NHS delivered services such as immunisation and screening programmes
14. Local initiatives to reduce excess deaths as a result of seasonal mortality
15. The local authority role in dealing with health protection incidents, outbreaks and emergencies
16. Public health aspects of promotion of community safety, violence prevention and response
17. Public health aspects of local initiatives to tackle social exclusion
18. Local initiatives that reduce public health impacts of environmental risks.

### Part 3 – Corporate Director Delegations

Add the following to the Scheme of Delegation for the Corporate Director for Children, Families and Wellbeing.

Without prejudice to the specific delegations to the Director of Public Health to maintain a strategic overview of the discharge of the Council's functions in relation to public health.

Amendments will also be made to the roles and responsibilities and scheme of delegation to reflect the new Directorate following the merger of the Children and Young People's and Communities and Wellbeing Directorates.

### Part 3 - Appointment of Officers

1. As set out in Article 12 of the Constitution, the following designations have been made:
  - a) The Chief Executive is designated Head of Paid Service in accordance with section 4 of the Local Government and Housing Act 1989
  - b) The Director of Legal & Democratic Services is designated Monitoring Officer in accordance with section 5 of the Local Government and Housing Act 1989
  - c) The Director of Finance is designated Chief Finance Officer in accordance with section 151 of the Local Government Act 1972
2. The Chief Executive is appointed Returning Officer for any constituency or part of a constituency coterminous with or contained in the Borough of Trafford
3. The Chief Executive is appointed Returning Officer for the elections of Councillors for the Borough of Trafford and of Councillors for parishes within the Borough.
4. The Chief Executive is appointed Registration Officer for any constituency or part of a constituency coterminous with or contained in the Borough of Trafford.
5. The Chief Executive following consultation with the Leader of the Council may appoint a Corporate Director to the role of Deputy Chief Executive on such terms and conditions including remuneration, as the Chief Executive sees fit. The Deputy Chief Executive shall:

1. undertake any duties delegated to him/her by the Chief Executive
2. perform duties of the Chief Executive set out in this Constitution either;
  - (i) upon the instruction of the Chief Executive; or
  - (ii) upon the instruction of the Leader of the Council when the Chief Executive is absent from his/her duties for whatever reasons for a period of five consecutive working days or more. During such times, the Deputy Chief Executive shall undertake any of the powers of the Chief Executive set out in this Constitution, except where the Constitution already provides for deputising arrangements (for example, Proper Officer functions)
6. The Director of Legal & Democratic Services is appointed as the officer who may do acts in respect of Registration in the event of the Chief Executive's absence or incapacity
7. The Corporate Director Children, Families and Wellbeing is appointed as the Statutory Director of Children' Services under section 18 of the Children Act 2004
8. The Corporate Director Children, Families and Wellbeing is appointed as the Statutory Director of Social Service (Adults ) under section 6 of the Local Authority Social Services Act 1970
9. The Corporate Director Transformation and Resources is appointed as the Statutory Scrutiny Officer under section 21ZA of the Local Government Act 2000
10. The Director of Public Health is appointed as the Statutory Director of Public Health as required under the Health and Social Care Act 2012.

## Appendix B – Health and Wellbeing Board

### Part 2 - ARTICLE 8 – REGULATORY AND OTHER COMMITTEES

#### 8.01 Regulatory and other committees

- (a) The Council will appoint the committees set out in the left hand column of the table “Responsibility for Council Functions” in Part 3 of this Constitution to discharge the functions described in column 3 of that table.
- (b) These Committees will conduct their proceedings in accordance with Article 13.
- (c) The Council will appoint a Health and Wellbeing Board with the membership and terms of reference as set out in the table “Responsibility for Council Functions” in Part 3 of this Constitution. The Board will conduct their proceedings in accordance with the procedure rules in Part 4 of the Constitution.

### Part 3 - RESPONSIBILITY FOR COUNCIL FUNCTIONS

Committee	Membership	Functions
<b>Health and Well-Being Board</b> (established in accordance with S194 of the Health and Social Care Act 2012).	Membership of the Health and Wellbeing Board will comprise of: <ul style="list-style-type: none"> <li>• Executive Member for Community Health and Wellbeing</li> <li>• Executive Member for Adult Social Services</li> <li>• Executive Member for Supporting Children and Families</li> <li>• Shadow Executive Member for Community Health and Wellbeing</li> <li>• Non-Executive Member GM Cluster Board</li> <li>• Corporate Director of Children, Families and Wellbeing *</li> <li>• Director of Public Health *</li> <li>• Chair of Clinical Commissioning Group</li> <li>• Nominated Director Clinical Commissioning Group</li> </ul>	<u>Terms of Reference</u> <ol style="list-style-type: none"> <li>1. To provide strong leadership and direction of the health and wellbeing agenda by agreeing priority outcomes for health and wellbeing.</li> <li>2. To develop a shared understanding of the needs of the local population and lead the statutory Joint Strategic Needs Assessment (JSNA).</li> <li>3. To seek to meet those needs by producing a Joint Health and Wellbeing Strategy for Trafford and ensure that it drives commissioning of relevant services.</li> <li>4. To drive a genuine collaborative approach to commissioning of improved health and care services which improve the health and wellbeing of local people and reduces health inequalities.</li> <li>5. To promote joined-up commissioning plans across the NHS, social care and public health.</li> <li>6. To have oversight of local Clinical Commissioning Group (CCG) and local authority commissioning plans.</li> <li>7. To operate as a thematic partnership within the context of the Sustainable Community Strategy Trafford 2021 and align its work to the Trafford Partnership in that capacity.</li> <li>8. To improve local democratic accountability and engage with the Health and Wellbeing Forum which includes Trafford residents, service providers and other key stakeholders to</li> </ol>



Committee	Membership	Functions
	<ul style="list-style-type: none"> <li>• Clinical Commissioning Group Lay Member</li> <li>• Chair Health Watch</li> </ul> <p>The Executive Member for Community Health and Wellbeing will chair the board and a nominated individual will serve as vice chair</p> <p>* Denotes that this position must be represented on the HWB (Note at least one Councillor and one member of the CCG must be appointed. A representative from Healthwatch must also be a member)</p> <p>The Council Membership is nominated by the Leader of the Council)</p>	<p>understand health and wellbeing needs in Trafford.</p> <p>9. To monitor and review the delivery of health and wellbeing improvements and outcomes through robust performance monitoring.</p>

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## TRAFFORD COUNCIL

**Report to:** Council  
**Date:** 13<sup>th</sup> March 2013  
**Report for:** Decision  
**Report of:** Executive Member for Highways and Environment

### Report Title

**Adoption of new byelaws to regulate the practice of acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis.**

### Summary

This report recommends the adoption of new byelaws relating to the practice of acupuncture and the business of tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis. The byelaws specify standards of cleanliness of premises, fittings and operators, together with the appropriate cleaning arrangements for instruments, materials and equipment, so as to protect customers from the risk of disease. They update and extend byelaws previously made by the Council in 1987.

### Recommendations

1. That the Council passes a resolution that Sections 14 – 17 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Local Government Act 2003 to include the regulation of cosmetic piercing and semi-permanent skin-colouring businesses, will apply to the Borough from 13<sup>th</sup> May 2013.
2. That the Council passes a resolution:-
  - (a) to adopt the new byelaws covering acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis;
  - (b) to authorise the affixing of the common seal to the new byelaws and;
  - (c) to authorise the Chief Executive to carry out the necessary procedures in affixing the seal, publicising the Council's intention to apply for confirmation of the byelaws by the Secretary of State for Health, and subsequently to apply for confirmation of the new byelaws.
3. That, subject to the Secretary of State for Health confirming the new byelaws, the Council will revoke the existing byelaws relating to acupuncture, tattooing, ear piercing and electrolysis which are dated 27<sup>th</sup> July 1987 and which were confirmed by the Secretary of State for Social Services on 13<sup>th</sup> January 1988.
4. That the fees to be charged for registration under the new byelaws are set to be in line with the fees currently charged under the existing byelaws.

Contact person for access to background papers and further information:

Name: Nigel Smith  
Extension: 4530

**Background Papers:**

None

**Implications:**

Relationship to Policy Framework/Corporate Priorities	The decision does not form part of the Council's Policy Framework. The decision supports the Corporate Priority 'Improving the Health and Wellbeing of Residents.'
Financial	There are no financial cost implications. Any minor administrative costs will be contained with existing budgets. Fee levels are unchanged from those already approved by the Council.
Legal Implications:	This report relates to the provisions in the Local Government Act 2003 which have amended the provisions contained within the Local Government (Miscellaneous Provisions) Act 1982, giving local authorities specific powers to regulate the activities of cosmetic piercing and semi-permanent skin-colouring. Further detail is included in the body of the report.
Equality/Diversity Implications	No. The proposed changes will apply equally to all sections of the community.
Sustainability Implications	None
Staffing/E-Government/Asset Management Implications	None
Risk Management Implications	None
Health and Safety Implications	These byelaws allow the Council to enforce standards of hygiene in premises where acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis activities are carried out. The purpose of these inspections is to provide increased health protection and to reduce the risk of blood borne virus infections such as HIV and Hepatitis.

**1.0 Background**

- 1.1. The Council has previously adopted the provisions of sections 14 and 15 of the Local Government (Miscellaneous Provisions) Act 1982 requiring those carrying on the practice of acupuncture or the business of tattooing, ear piercing or electrolysis to be registered. On 30<sup>th</sup> June 1987 the Council passed byelaws with respect to (a) acupuncture, (b) tattooing, and (c) ear piercing and electrolysis. The Common Seal was affixed to the byelaws on 27<sup>th</sup> July 1987, and the byelaws were confirmed by the then Secretary of State for Social Services on 13<sup>th</sup> January 1988, and came into operation on 1<sup>st</sup> March 1988.

- 1.2. These byelaws allow the Council to enforce standards of hygiene in premises where these activities are carried out. The purpose of these inspections is to provide increased health protection and to reduce the risk of blood borne virus infections such as HIV and Hepatitis.
- 1.3. Those carrying on the practice of cosmetic (body) piercing, other than of the ears, or semi-permanent skin-colouring, such as micro-pigmentation, semi-permanent make up or temporary tattooing, were not included within these provisions and have therefore been outside the Local Authority's regulatory control, other than by way of application of the Health and Safety at Work etc. Act 1974.

## **2.0 Introduction**

- 2.1 The newer treatments (listed in paragraph 1.3) have become more popular but pose the same, or in some cases, greater risks than those subject to the existing byelaws.
- 2.2 The Government introduced provisions in the Local Government Act 2003 amending the provisions contained within the Local Government (Miscellaneous Provisions) Act 1982, giving local authorities specific powers to regulate the activities of cosmetic piercing and semi-permanent skin-colouring. The Department of Health has also issued model byelaws which encompass all previous activities as well as cosmetic piercings and semi-permanent skin-colouring. A copy of the new byelaws is attached as Appendix 1.
- 2.3 These byelaws will have the effect of revoking and replacing the Council's existing separate byelaws with respect to businesses carrying out tattooing, ear-piercing, acupuncture and electrolysis.
- 2.4 Article 4.02 (j) of the Council's constitution reserves the power to make byelaws to the full Council. Once approved by the Council, these bye-laws would require approval from, and confirmation by, the relevant Secretary of State.
- 2.5 At least one month before applying to the Secretary of State for confirmation, notice of the Council's intention to apply for confirmation will need to be given in one or more local newspapers. In addition, a copy of the byelaws should be deposited at Sale Waterside or Trafford Town Hall for inspection.

## **3.0 Registration and Fees**

- 3.1 The provisions will require businesses to register the business proprietor and their premises, and to observe byelaws relating to the cleanliness and hygiene of premises, practitioners and equipment.
- 3.2 Section 15(6) of the 1982 Act allows local authorities to charge reasonable registration fees for the registration process. The fee is made up of an amount for registering the person carrying on the business and an amount for registering the premises where the activity takes place.
- 3.3 A fee of £160 is already agreed for the registration of premises and the proprietor/practitioner, together with a fee of £54 for each additional practitioner. The fee is increased annually in line with inflation, and the proposed fee for 2013-14 is £168 for the registration of premises and the proprietor/practitioner, and £57 for each additional practitioner. It is proposed that the same fee will apply to the new activities of cosmetic piercing and semi-permanent skin-colouring.

- 3.4 Businesses that are already registered under existing byelaws will not be required to re-register following the implementation of the proposed byelaws unless their activities change and they wish to now undertake cosmetic piercing or semi-permanent skin-colouring. These businesses will not, therefore, have to pay another registration fee but will have to comply with the new model byelaws. In the vast majority of instances standards are high enough to mean that no additional works will be needed.
- 3.5 Persons and premises that are currently registered for ear piercing, tattooing, acupuncture or electrolysis and now wish to carry out cosmetic piercings or semi-permanent make-up will be required to obtain a new registration and will be required to pay the full fee.
- 3.6 All relevant proprietors in the area will be notified of the proposed adoption of the byelaws and the need to register the relevant activities.

#### **4.0 Recommendations**

- 4.1 That the Council passes a resolution that Sections 14 – 17 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Local Government Act 2003 to include the regulation of cosmetic piercing and semi-permanent skin-colouring businesses, will apply to the Borough from 13<sup>th</sup> May 2013.
- 4.2 That the Council passes a resolution:-
- (a) to adopt the new byelaws covering acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis;
  - (b) to authorise the affixing of the common seal to the new byelaws and;
  - (c) to authorise the Chief Executive to carry out the necessary procedures in affixing the seal, publicising the Council's intention to apply for confirmation of the byelaws by the Secretary of State for Health, and subsequently to apply for confirmation of the new byelaws.
- 4.3 That, subject to the Secretary of State for Health confirming the new byelaws, the Council will revoke the existing byelaws relating to acupuncture, tattooing, ear piercing and electrolysis which are dated 27<sup>th</sup> July 1987 and which were confirmed by the Secretary of State for Social Services on 13<sup>th</sup> January 1988.
- 4.4 That the fees to be charged for registration under the new byelaws are set to be in line with the fees currently charged under the existing byelaws.

#### **Other Options**

The alternative is to not introduce the byelaws to include the activities of cosmetic piercing and semi-permanent skin-colouring. The recommendations are intended to promote public health, and this would mean that a sector of the population will not be protected as fully as it otherwise might be.

#### **Consultation**

Should the resolution be made the Council is required to give at least one clear calendar month's notice that it intends to apply for confirmation of the new byelaws, by placing a notice in one or more local newspapers circulating in the areas to be affected.

A copy of the byelaws will be deposited at Sale Waterside or Trafford Town Hall and be open to public inspection without charge at all reasonable times. A copy of the byelaws will be posted on the Council's website.

Objections to the proposed published byelaws can be made to the Department of Health, and as part of their process of deciding if the proposed byelaws will be confirmed the Department of Health will consider any objections.

The Council's Finance and Legal Officers have been consulted about these proposals.

### **Reasons for Recommendation**

The authority will have additional powers to control currently unregulated activities (cosmetic piercings and semi-permanent skin-colouring). This will achieve greater protection of public health and promote a healthy population. The Department of Health model byelaws update specific provisions to reflect current infection control advice and industry practice.

**Key Decision:** No

**Finance Officer Clearance** PC  
**Legal Officer Clearance** MJ



**CORPORATE DIRECTOR'S SIGNATURE**

To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.

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# APPENDIX 1

## MODEL BYELAWS

### **Acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis**

Byelaws for the purposes of securing the cleanliness of premises registered under sections 14(2) or 15(2) or both of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and of persons registered under sections 14(1) or 15(1) or both of the Act and persons assisting them and of securing the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the practice of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis, or any two or more of such practice and businesses made by Trafford Borough Council in pursuance of sections 14(7) or 15(7) or both of the Act.

#### **Interpretation**

1.—(1) In these byelaws, unless the context otherwise requires—

“The Act” means the Local Government (Miscellaneous Provisions) Act 1982;

“client” means any person undergoing treatment;

“hygienic piercing instrument” means an instrument such that any part of the instrument that touches a client is made for use in respect of a single client, is sterile, disposable and is fitted with piercing jewellery supplied in packaging that indicates the part of the body for which it is intended, and that is designed to pierce either—

(a) the lobe or upper flat cartilage of the ear, or

(b) either side of the nose in the mid-crease area above the nostril;

“operator” means any person giving treatment, including a proprietor;

“premises” means any premises registered under sections 14(2) or 15(2) of the Act;

“proprietor” means any person registered under sections 14(1) or 15(1) of the Act;

“treatment” means any operation in effecting acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis;

“the treatment area” means any part of premises where treatment is given to clients.

(2) The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2.—(1) For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that—

(a) any internal wall, door, window, partition, floor, floor covering or ceiling is kept clean and in such good repair as to enable it to be cleaned effectively;

- (b) any waste material, or other litter arising from treatment is handled and disposed of in accordance with relevant legislation and guidance as advised by the local authority;
- (c) any needle used in treatment is single-use and disposable, as far as is practicable, or otherwise is sterilized for each treatment, is suitably stored after treatment and is disposed of in accordance with relevant legislation and guidance as advised by the local authority;
- (d) any furniture or fitting in premises is kept clean and in such good repair as to enable it to be cleaned effectively;
- (e) any table, couch or seat used by a client in the treatment area which may become contaminated with blood or other body fluids, and any surface on which a needle, instrument or equipment is placed immediately prior to treatment has a smooth impervious surface which is disinfected—
  - (i) immediately after use; and
  - (ii) at the end of each working day.
- (f) any table, couch, or other item of furniture used in treatment is covered by a disposable paper sheet which is changed for each client;
- (g) no eating, drinking, or smoking is permitted in the treatment area and a notice or notices reading “No Smoking”, and “No Eating or Drinking” is prominently displayed there.

(2)(a) Subject to sub-paragraph (b), where premises are registered under section 14(2) (acupuncture) or 15(2) (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the 1982 Act, a proprietor shall ensure that treatment is given in a treatment area used solely for giving treatment;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

(3)(a) Subject to sub-paragraph (b), where premises are registered under section 15(2) (tattooing, semi-permanent skin-colouring and cosmetic piercing) of the 1982 Act, a proprietor shall ensure that the floor of the treatment area is provided with a smooth impervious surface;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

**3.—(1)** For the purpose of securing the cleansing and so far as is appropriate, the sterilization of needles, instruments, jewellery, materials and equipment used in connection with treatment—

- (a) an operator shall ensure that—
  - (i) any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in treatment—
    - (aa) is clean and in good repair and, so far as is appropriate, is sterile;
    - (bb) has not previously been used in connection with another client unless it consists of a material which can be and has been adequately cleansed and, so far as is appropriate, sterilized.
  - (ii) any needle, metal instrument, or other instrument or equipment used in treatment or for handling such needle, instrument or equipment and any part of a hygienic piercing instrument that touches a client is sterile;
  - (iii) any jewellery used for cosmetic piercing by means of a hygienic piercing instrument is sterile;

- (iv) any dye used for tattooing or semi-permanent skin-colouring is sterile and inert;
  - (v) any container used to hold dye for tattooing or semi-permanent skin-colouring is either disposed of at the end of each treatment or is cleaned and sterilized before re-use.
- (b) a proprietor shall provide—
- (i) adequate facilities and equipment for—
    - (aa) cleansing; and
    - (bb) sterilization, unless only pre-sterilized items are used.
  - (ii) sufficient and safe gas points and electrical socket outlets;
  - (iii) an adequate and constant supply of clean hot and cold water on the premises;
  - (iv) clean and suitable storage which enables contamination of the articles, needles, instruments and equipment mentioned in paragraphs 3(1)(a)(i), (ii), (iii), (iv) and (v) to be avoided as far as possible.

**4.—(1) For the purpose of securing the cleanliness of operators, a proprietor—**

- (a) shall ensure that an operator—
- (i) keeps his hands and nails clean and his nails short;
  - (ii) keeps any open lesion on an exposed part of the body effectively covered by an impermeable dressing;
  - (iii) wears disposable examination gloves that have not previously been used with another client, unless giving acupuncture otherwise than in the circumstances described in paragraph 4(3);
  - (iv) wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable covering that has not previously been used in connection with another client;
  - (v) does not smoke or consume food or drink in the treatment area; and
- (b) shall provide—
- (i) suitable and sufficient washing facilities appropriately located for the sole use of operators, including an adequate and constant supply of clean hot and cold water, soap or detergent; and
  - (ii) suitable and sufficient sanitary accommodation for operators.

(2) Where an operator carries out treatment using only a hygienic piercing instrument and a proprietor provides either a hand hygienic gel or liquid cleaner, the washing facilities that the proprietor provides need not be for the sole use of the operator.

(3) Where an operator gives acupuncture a proprietor shall ensure that the operator wears disposable examination gloves that have not previously been used with another client if—

- (a) the client is bleeding or has an open lesion on an exposed part of his body; or
- (b) the client is known to be infected with a blood-borne virus; or
- (c) the operator has an open lesion on his hand; or
- (d) the operator is handling items that may be contaminated with blood or other body fluids.

5. A person registered in accordance with sections 14 (acupuncture) or 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Act who visits people at their request to give them treatment should observe the requirements relating to an operator in paragraphs 3(1)(a) and 4(1)(a).

6. The byelaws relating to Regulating the Practices of Acupuncture, Tattooing, Ear Piercing and Electrolysis that were made by Trafford Metropolitan Borough Council on the 27<sup>th</sup> July 1987 and were confirmed by the Secretary of State for Social Services on 13<sup>th</sup> January 1988 are revoked.

COUNCIL'S SIGNATURE

COUNCIL'S SEAL

The foregoing byelaws are hereby confirmed by the Secretary of State for Health  
on \_\_\_\_\_ and shall come into operation on \_\_\_\_\_

Member of the Senior Civil Service  
Department of Health

## **NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS**

Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on premises. Section 16(9) of the Local Government (Miscellaneous Provisions) Act 1982 provides that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act. A person who contravenes section 16(9) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale (see section 16(10)).

Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 also provides that any person who contravenes these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. If a person registered under Part VIII of the Act is found guilty of contravening these byelaws the Court may, instead of or in addition to imposing a fine, order the suspension or cancellation of the person's registration. A court which orders the suspension of or cancellation of a person's registration may also order the suspension or cancellation of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It shall be a defence for the person charged under the relevant sub-sections of section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Nothing in these byelaws extends to the practice of acupuncture, or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis by or under the supervision of a person who is registered as a medical practitioner, or to premises in which the practice of acupuncture, or business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis is carried out by or under the supervision of such a person.

Nothing in these byelaws extends to the practice of acupuncture by or under the supervision of a person who is registered as a dentist, or to premises in which the practice of acupuncture is carried out by or under the supervision of such a person.

The legislative provisions relevant to acupuncture are those in section 14. The provisions relevant to treatment other than acupuncture are in section 15.

The key differences in the application of requirements in respect of the various treatments are as follows:

*The references in the introductory text to provisions of section 14 (acupuncture) of the Local Government (Miscellaneous Provisions) Act 1982 **only apply to acupuncture.***

*The references in the introductory text to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Local Government (Miscellaneous Provisions) Act 1982 **do not apply to acupuncture.***

*The references in paragraph 1(1) in the definition of "premises" to provisions of section 14 (acupuncture) **only apply to acupuncture.***

*The references in paragraph 1(1) in the definition of "premises" to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) **do not apply to acupuncture.***

*The requirement in paragraph 2(2) that treatment is given in a treatment area used solely for giving treatment **applies to acupuncture, tattooing, semi-permanent***

**skin-colouring, cosmetic piercing and electrolysis but not to ear-piercing or nose-piercing using a hygienic piercing instrument.**

*The requirement in paragraph 2(3) that the floor of the treatment area be provided with a smooth impervious surface **applies to tattooing, semi-permanent skin-colouring and cosmetic piercing but not to acupuncture or electrolysis or ear-piercing or nose-piercing using a hygienic piercing instrument.***

*The requirements relating to dye or a container used to hold dye used for treatment in paragraphs 3(1) (a) (iv) and (v) **apply to tattooing and semi-permanent skin-colouring.***

*The requirement in paragraph 4(1)(a)(iii) that an operator wears disposable examination gloves that have not previously been used with another client **does not apply to acupuncture otherwise than in the circumstances described in paragraph 4(3).***

*The provisions of paragraph 4(2) in relation to washing facilities **apply to cosmetic piercing using only a hygienic piercing instrument.***

*The exception whereby the byelaws do not apply to treatment carried out by or under the supervision of a **dentist applies only to acupuncture (see section 14(8) of the Act).***

## TRAFFORD COUNCIL

**Report to:** Executive & Council  
**Date:** 04 March 2013 & 13 March 2013  
**Report for:** Decision  
**Report of:** Executive Member for Economic Growth and Prosperity

### Report Title

**GREATER MANCHESTER JOINT MINERALS DEVELOPMENT PLAN DOCUMENT (JMDPD): INSPECTOR'S REPORT AND ADOPTION**

### Summary

In August 2009 the ten Greater Manchester Districts agreed to produce a joint Development Plan Document (DPD) covering planning for minerals (the Minerals Plan). This document identifies sites/areas of search for extraction along with depots for transport and storage, areas for the safeguarding of minerals, and a suite of minerals planning policies.

Following a series of public consultations, the Minerals Plan was submitted to the Secretary of State in November 2011 for Examination. The Examination hearing sessions took place over two days during February 2012 and an additional session in November 2012.

The Inspector has now issued his Report which confirms the soundness of the Submission Plan, subject to a modest number of changes, and the Plan can now be adopted by each of the ten Districts in Greater Manchester.

### Recommendations

That the Executive recommends the Council to:

1. Note the publication of the Inspector's Report on the Greater Manchester Joint Minerals Development Plan Document, and;
2. Adopt the Greater Manchester Joint Minerals Development Plan Document, together with consequential changes to the Trafford Local Plan Policies Map, and bring it into force on the 26<sup>th</sup> April 2013.

### Contact person for access to background papers and further information:

Name: Rob Haslam, Interim Strategic Planning Manager. Ext. 4788.

### **BACKGROUND PAPERS**

- Inspector's Report (*Available via the dedicated Minerals Plan website and at all Trafford libraries/contact centres from the 25th February 2013*)
- JMDPD proposed Adopted Plan (*Available via the dedicated Minerals Plan website*)

- Trafford Local Plan Policies Map changes (*Available via the dedicated Minerals Plan website*)

Due to their size, a hard copy of each of these documents will be available at the Executive and Council meetings. Electronic copies can also be made available on CD upon request.

## 1.0 Background

- 1.1 In August 2009 the ten Greater Manchester Districts agreed to produce a joint Development Plan Document (DPD) covering planning for minerals (the Minerals Plan). The document was submitted to the Secretary of State in November 2011 for Examination and the Planning Inspectorate appointed Inspector Mr Andrew Mead BSc (Hons) MRTPI MIQ to undertake the Examination into the soundness of the Plan.
- 1.2 The Minerals Plan covers land-use planning matters in relation to minerals across the ten Greater Manchester Districts and includes detailed criteria-based policies, as well as policies covering Mineral Safeguarding Areas and Areas of Search. The document includes a set of development management policies which will assist in the consideration of minerals planning applications, as well as a set of plans identifying Mineral Safeguarding Areas and Areas of Search for each of the 10 Districts.
- 1.3 The Minerals Plan aims to ensure Greater Manchester contributes towards meeting the sub-regional requirement for sand and gravel and crushed rock. It also aims to ensure that other mineral resources are not needlessly sterilised by non-mineral development. No specific site allocation proposals came forward as part of the development of the Minerals Plan and therefore the Plan can only meet these requirements through the designation of Mineral Safeguarding Areas to protect mineral resources from needless sterilisation and the identification of Areas of Search for sand, gravel and sandstone/gritstone. All Mineral Safeguarding Areas and Areas of Search, as well as accompanying policies within the Minerals Plan, have been subject to extensive consultation with stakeholders. The following were identified in Trafford:-
  - Mineral Safeguarding Area (MSA) for glacio-fluvial sand and gravel  
This comprises extensive areas of open land around Warburton and Dunham, to the south east of Partington, east of Carrington, west of Ashton upon Mersey, in the Mersey Valley and smaller areas in the south east of the Borough close to the River Bollin and Timperley Brook.
  - Areas of Search for gravel  
These comprise a small number of areas in the Mersey Valley, adjacent to the Carrington Spur and M60.
- 1.4 The initial Examination hearing sessions took place over two days during February 2012. A further consultation on Proposed Modifications to the Minerals Plan then took place in August - September 2012. This was followed by a further hearing session which took place in November 2012.
- 1.5 In January 2013, the Report was received from the Planning Inspectorate confirming the soundness of the Minerals Plan – subject to a modest number of changes. As such the Minerals Plan can now be adopted as part of the Local Plan for each of the ten Greater Manchester Districts. Each District is also required to adopt proposed



changes to its adopted Local Plan Policies Map in order to show the allocations in the Minerals Plan, which are relevant to that District. All Districts have been asked to formally adopt the Minerals Plan in order for the Plan to come into force on the 26<sup>th</sup> April 2013.

- 1.6 Following adoption of the Minerals Plan by the Council any person aggrieved by the Plan may make an application to the High Court on the ground(s) that:
- a) the document is not within the appropriate power; and/or
  - b) a procedural requirement has not been complied with.

Any such application must be made within six weeks from the date of adoption.

**Other Options**

The only alternative is to resolve not to adopt the Greater Manchester Joint Minerals Development Plan Document and consequential changes to the Trafford Local Plan Policies Map. This would mean that the Council does not have an up-to-date detailed planning framework to guide sustainable development of minerals resources and determine specific minerals planning applications.

**Consultation**

Preparation of the Plan has involved extensive consultation at key stages and has been in full accordance with the relevant Regulations and the adopted Trafford Statement of Community Involvement.

Whilst there is no consultation at this final stage of Plan adoption, there is provision for High Court legal challenge on limited grounds once the Plan has been adopted.

**Reasons for Recommendation**

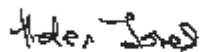
To ensure that the relevant Regulations are satisfied and that approval to adopt the Plan, together with consequential changes to the Trafford Local Plan Policies Map, is obtained.

**Key Decision**

This is a key decision currently on the Forward Plan: Yes

**Finance Officer Clearance**      ...PC...

**Legal Officer Clearance**      ...MJ...



**CORPORATE DIRECTOR'S SIGNATURE**

To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.

**Implications:**

Relationship to Policy Framework/Corporate Priorities	The document has been developed to be consistent with the Trafford Partnership's Sustainable Community Strategy and the Trafford Core Strategy.
Financial	None directly from this report. Financial provision

	to prepare, and adopt, the Plan has already been made by the ten Districts in Greater Manchester.
Legal Implications	Adoption of the Joint Minerals DPD, and the consequential changes to the Trafford Local Plan Policies Map, are covered by the statutory provisions of the plan-making process. The proposed arrangements are in full accordance with The Town and Country Planning (Local Planning) (England) Regulations 2012 and the adopted Trafford Statement of Community Involvement.
Equality/Diversity Implications	The Joint Minerals DPD has been subject to Equality Impact Assessment to ensure that equality issues have been considered as part of its preparation.
Sustainability Implications	The Joint Minerals DPD has been subject to Sustainability Appraisal throughout its preparation.
Staffing/E-Government/Asset Management Implications	Preparation and adoption of the Joint Minerals DPD has been co-ordinated by a Planning team based at the Greater Manchester Minerals and Waste Planning Unit, supported by Planning Officers from each Greater Manchester District.  Some of the Minerals Safeguarding Areas and Areas of Search identified in the Joint Minerals DPD may have implications for Council-owned/occupied land.
Risk Management Implications	Adoption of the Joint Minerals DPD will be a crucial element in securing sustainable minerals development to assist in meeting Greater Manchester's needs. Management of risks involved in the Plan preparation and adoption process has been addressed in the Council's Local Development Scheme.
Health and Safety Implications	N/A