

## Legal comments

1. The decision principally concerns the proposed allocation of funding derived from 18 separate section 106 obligations secured from developments in different parts of the City. Brief details of those 18 agreements and the proposed spend in each case is set out in Appendix A.
2. Each of the proposed projects specified at Items 2-18 of Appendix A is compatible with the Council's covenants in the corresponding s106 obligation which provided the funding for the relevant expenditure. The s106 obligation at Item 1 (1-72 Smedley Close) on Appendix A did not contain any contractual commitment by the Council to use that contribution in any particular manner.
3. The terms of the s106 obligations listed in Appendix A vary. In those cases where a covenant has been included requiring the Council to repay contributions which remain unspent after a specified period, the relevant time periods have not yet expired, and are not due to expire imminently. The monies are therefore available for allocation and none is currently susceptible to clawback.
4. Decisions 2, 3 and 4 are matters which fall within the terms of reference of the Portfolio Holder for Culture, Leisure and IT under the Council's Constitution.
5. Also under the Council's Constitution, Area Committees are consultees in relation to decisions for spending of s106 monies in their local area. The body of this delegated decision report together with Appendix A sets out the consultations which have taken place in relation to Items 3, 4, 5, 6, 7, 8, 10, 11 and 12 on Appendix A. All of those consultations were carried out via formal meetings of the relevant Area Committees before lockdown. It is considered that the Constitutional requirements in relation to consultation have been met in relation to these Items.
6. In relation to the other Items (1, 2, 9, 13, 14, 15, 16, 17 and 18) it has not been possible to consult with the relevant Area Committees via reports to meetings for the reasons set out in the decision. Decision 1 therefore proposes that the Chief Executive exercises Area Committee executive powers under delegation 82(b) in relation to all of these Items.
7. Delegation 82(b) is available where a decision needs to be taken before the next meeting of the Area Committee. Its use is subject to consultation with the Chair of the relevant Area Committee, and the requirement that the exercise of the delegation must be reported for information to the next available meeting of that Area Committee. Appendix B sets out the consultation which has taken place in relation to these particular Items. The decision report and Appendix B set out the justification for the use of this delegation and the steps which have been taken and will be taken to comply with the requirements of delegation 82(b).

8. Although delegation 82(b) does not name the Interim Chief Executive as an officer to whom the Area Committee executive power is delegated, under the Council's Constitution the Chief Executive holds overall corporate management and operational responsibility (including overall management responsibility for all officers) and may take a decision where the subordinate officer to whom it is specifically delegated is absent. In this case, the Corporate Director for Commercial and Operations holds the delegated power under delegation 82(b) but is no longer in post, so it is considered that the Interim Chief Executive may exercise that function and take Decision 1 in place of the Corporate Director.