

# **Decommissioning in Manchester**

  

## **Basic Principles and Good Practice Guide**

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## 1. Introduction

This document is a guide for commissioners around the process the Council has agreed to follow when decommissioning. It is also for contractors and organisations in receipt of funding support, to provide them with transparency about the considerations that will take place.

This guide is to advise on best practice, it is not a one size fits all model. Each situation where decommissioning is being considered can use and adapt this guidance to suit the specific service area needs. While Manchester City Council values the partners it has in delivering services to residents across Manchester, it is inevitable that with restricted funding, changing needs of residents and communities or in some cases poor quality performance there will be reviews of services that can result in decommissioning.

In this context, decommissioning refers to the planned and managed process of withdrawal of grants or the ending of a contract between the Council and a provider of a service, whether it is a commercial or not for profit organisation.

A grant to a third sector organisation can be financial support for specified aspects of the organisations expenditure or, financial support for delivery of services specified in a funding agreement. A contract refers to a legal document between a commissioner (the Council) and a contractor (the service provider) based on a tender submitted setting out services that will be provided.

## 2. Context

To deliver the Community Strategy Manchester Partnership has a Manchester Board, and the Manchester Investment Board. The Manchester Investment Board is made up of senior officers from key service delivery agencies, NHS Manchester, Job Centre Plus, GMP and Greater Manchester Fire and Prevention. The Council with its partners are committed to the Community Strategy and its vision for 2015 which includes work on the three key areas of economic growth, worklessness and aspiration.

Commissioning of services is one way in which these challenges can be met. Any decision to decommission services to reflect changed priorities and/or changing budgets should be made in this context, underpinned by a clear evidence trail demonstrating the process used. The necessity for good practice when decommissioning is not simply a service management issue but also one of following due process. There are examples of cases where local authorities have been challenged for not undertaking equality impact assessments or proper consultation as part of the decision making process. This can be costly for both the authority and the third sector challengers and so planning the process carefully is helpful to everyone involved.

### 3. Considerations when decommissioning

**Service users:** Withdrawal of funding from services may have a significant impact on the lives of current and potential users. For service users, a decision to decommission a service may mean they start to use an alternative provider or that support is provided in a different way. The decommissioning process needs to consider the impact of loss of funding on a service and whether the welfare, particularly of vulnerable service users, can continue to be met.

**Service providers:** Managing change where staff face uncertain prospects is always difficult. The Council needs to make sure there is sufficient time allocated for organisations to get advice on human resource and legal issues. Wherever possible, the Council should signpost providers to appropriate sources of advice and support. See also Appendix Two.

**Stakeholders:** Stakeholders of services such as referral agencies, linked services or statutory partners should be informed as soon as possible of a decision to decommission a service. Commissioners need to take legal advice regarding information that can be shared with stakeholders at different stages of a decommissioning process to help ensure effective planning and co-ordination.

**Legal:** A contract or partnership funding agreement with a service provider can be terminated during its life time using the termination clauses and in the case of a contract when it comes to a natural end. It is important to understand the legal position regarding the term of funding and whether there may be any legally enforceable expectation that funding will continue.

The Council as a public body has certain overarching public law duties that govern how it must act. These include:

- *Legitimate expectation:* The Council should be able to establish no continuing contractual obligation to continue to commission a service or to provide grant funding. This includes consideration of whether past conduct has given rise to a legally enforceable legitimate expectation that funding will continue.

*Consultation:* where there is a duty to consult this must include sufficient time and information to comment on the proposals and take place when these are still at a formative stage. The results of the consultation must be taken into account when making decisions

- *Fairness*: There should be transparency and openness in the decision making, where there are set procedures these should be followed, there must be no pre-determination of the issues, the Council must give reason/s for a decision
- *Lawfulness*: The Council must not act beyond its powers and can only take action it is allowed by law to make
- *Reasonableness*: The Council must not act irrationally and decisions must be reasonable and proportionate
- *Equality*: If appropriate to the service, the Council should undertake an equality impact assessment and ensure it considers the various equality issues fully.

For advice on the legal requirements of commissioning including consultation and decommissioning contact the City Solicitors officer:

Liz Treacy l.treacy@manchester.gov.uk

## 4. Planning for decommissioning

There are two main kinds of decommissioning

- Decommissioning when a contract or funding agreement is coming, or has come to an end but continuing on a three-month notice basis.
- Decommissioning where there is non-compliance in meeting the conditions of funding or service specification, which results in commissioners seeking early termination. When this is the case, it is important to get legal advice before deciding to decommission

*This guide is concerned with the first kind of decommissioning, that is the process to be followed when a contract or funding agreement has come or is coming to an end.*

**Roles and Responsibilities:** When decommissioning takes place:

- A named officer should be identified to manage the process and be the main contact for providers and service users.
- It needs to be agreed, who has delegated authority and what reports and to who will be needed. This can impact on the timescales – see below.

**Notice of decommissioning:** Where a service or service area is at risk of decommissioning, the named officer should notify the service provider/s in writing clearly outlining the risk to the organisation (see Appendix Two) and explaining why decommissioning is being considered. The commissioner should also consider how to consult with representative networks of service providers.

**Consultation:** To ensure a ‘one council’ approach to consultation central communications and legal services will advise on the principles that need to apply.

Consultation will vary depending on whether it is part of the commissioning cycle and involve an assessment of need and planning of service before recommissioning, or whether it is purely about managing a reduced budget with options for consideration

While consultation is underway there may be budget implications and transitional funding needed until such time as decisions are made and implemented.

**Timescales:** Existing service providers and stakeholders should be involved as early as possible. The more notice that can be given the easier it is for service providers to manage the responsibilities that come with reduction or withdrawal of funding such as staff contracts, leases and commitment to service users.

Termination of funding can happen at the end of a contract without notice but should ideally meet a minimum three months notice prior to the contract or partnership funding agreement end date. If funding has extended beyond a contract or agreement date again the ideal is that a minimum three months notice will apply based on the principles set out in *Working Together: A Manchester Compact*. In some circumstances however this may not be advised, such as where a service has become a risk to service users or where fraud has been identified

**Communication:** The planning process needs to consider who to inform and at what stage. Service providers, service staff, stakeholders, service users, carers, elected members, key partners etc. will all have an interest in what is happening. An overall communication plan will be needed and in some cases legal advice or press office advice taken into account.

There is a single corporate communications process which will advise and support this. For information contact Sara Tomkins [s.tomkins@manchester.gov.uk](mailto:s.tomkins@manchester.gov.uk).

## 5. Risk and Impact Assessment

When decommissioning is being considered impact assessment should take place.

An outline form for a basic assessment is included with this guide at Appendix Four. Need for a more detailed risk assessment, which applies when decommissioning will affect vulnerable residents, will be subject to the planning process. Impact assessment should be proportionate to the level of funding involved and include:

- Equalities impact assessment. The Council has a detailed: [‘Guide to Undertaking Equality Impact Assessments’](#) Factors to consider when considering an equality impact assessment with regard to race, gender, disability, sexuality, age and religion/belief are:
  - Does the service have a high relevance to equality and diversity
  - Is there evidence to show how the service impacts on different groups?
  - Has service monitoring identified the benefit to the equality group affected
  - If the impact is positive how will this be safeguarded
  - If the impact is negative what solutions will be considered

- Impact on service users and carers, addressing potential consequences of decommissioning. If vulnerable or at risk clients are service users then a detailed assessment of this will be needed.
- Impact on other contracts or partnership funding. It is not always the case that withdrawal of funding will result in service closure. Some providers receive funding from other sources or manage in such a way that the service can continue. Conversely, alternative funding may be conditional on the affected funding and so a decommission can impact on another source of funding.
- Impact on referral partners and other parties, identifying potential alternative services and capacity issues

Where circumstances do not allow for an in-depth impact assessment, the reasons should be recorded and shared with stakeholders at the earliest opportunity.

## 6. The decommissioning process

There are many parts to a decommissioning process but these can generally be grouped into two stages.

- Stage One: Deciding whether to commission again. This stage should include the impact assessment on whether decommissioning of a service will affect vulnerable clients, equality issues or partnership funding arrangements.
- Stage Two: Where decommissioning is agreed, the process will vary depending on the impact decommissioning will have on service users, staff and key stakeholders. In some cases a letter may be sufficient, in others meetings will need to take place and a more carefully managed process implemented, particularly where there are vulnerable or at risk service users.

### Stage One: Strategic Review, Risk and Equality Impact Assessment

Each service should ensure that it designs a process appropriate to the circumstances, and consider the following general steps:

- Establish the decision making process and delegated authority
- Letter to all service providers informing them of the strategic review and/or risk and equality impact assessment and possible outcomes
- Letter to stakeholders advising them of the process being followed
- Duty to inform, consult and involve (Manchester Model for Commissioning)
- Strategic review and risk and equality impact assessment completed
- Report to decision making body with recommendations on whether to commission a new service and the details that will be followed
- Report to decision making body on decommissioning process where this will apply
- Recommendations agreed or not agreed
- Letter to all service providers informing them of the Commissioners decision
- Implementation of commissioners decision

## Stage Two: Decommissioning and Exit Planning

If a decision is made by the strategic commissioning panel that will result in services being decommissioned, each service should ensure that it designs a process appropriate to the circumstances, and consider the following general steps:

- Establish the decision making process and delegated authority
- Allocation of officer to manage process
- Progress summary sheet for each service provider
- Progress summary sheet for process
- Arrangements agreed to manage changes in referral pathways
- Letter to joint funding agencies, key stakeholders, service providers and service users with meetings where appropriate
- Decommissioning process signed off by decision making body.

**It is important that we retain all emails, files, reports etc around the decision making process.**

## 7. Appendix One: Suggested checklist for decommissioning

### Stage One

- Date and authority given to review funding programme
- Lead commissioner agreed
- Designated officer/s for affected organisations
- Timetable – are the deadlines realistic and do they meet legal requirements
- Strategic review to take place
- Consultation process included
- Risk Assessment undertaken
- Equality Impact Assessment undertaken
- Legal advice required: Yes/No
- Communications agreed. This could include development of guidance on service change such as toolkits or protocol documents, briefings for affected stakeholders and service users, feedback for unsuccessful tenderers etc
- Service providers informed of the reasons for the service change/redesign and the process being followed
- Stakeholders and relevant agencies informed/involved
- Recommendations of strategic review
- Briefings for affected stakeholders and service users
- Implications of risk and equality impact assessments
- Date and authority given by strategic lead commissioners to decommission

### Stage Two

- Named officer to manage process
- Process of decommissioning agreed
- Letter to affected organisation/s
- Progress summary sheet prepared for each service provider
- Letter to key stakeholders, joint funding agencies and service users
- Meetings where appropriate
- Arrangements agreed to manage changes in referral pathways for vulnerable service users
- Decommissioning process signed off



## 8. Appendix Two: Guidance to Service Providers

If affected by service area review and redesign service providers may need to consider the following and communications should advise them of this:

- The reasons for service change, redesign or closure
- The implications of closing down all or part of a service
- The timescale available to manage change
- Full cost recovery where preparing a new tender or funding application that can meet the costs of start up and close down of a service
- The implications for staff employed to provide the funded service
- The possibility of TUPE arrangements where there is a change in service provider. Appropriate advice to manage this change is essential
- Premises – termination or assignment of leases
- Organisations issues if a contract or funding agreement comes to an end such as disposal of assets, records storage, final accounts and reports
- Information sharing if there is a change of service, who has to be notified and who will do this
- Compliance with any regulatory requirements that may apply

Communication to service providers affected by reduction or withdrawal of funding will need to be on the basis of need to know until a final decision has been made and the information can move into the public domain.

## 9. Appendix Three: Useful Documents and Contacts

[Guide to Commissioning in Manchester with the Third Sector](#) (on MCC website or from Chief Executive's Area Co-ordination and Third Sector Team)

[Equality Impact Recording Template](#) (on Council website or from Chief Executive's Service Inclusion Team)

### **Area Co-ordination and Third Sector Team**

For advice on grant funding programmes and the contract with the Infrastructure Support service for Manchester's Third Sector

W: [Third Sector Policy and Grants - Manchester City Council](#)

E: [Voluntary.sector.grants@manchester.gov.uk](mailto:Voluntary.sector.grants@manchester.gov.uk)

T: 0161 234 3016

### **Manchester Community Central**

Support for Manchester third sector groups, including management of grant or contract funding

W: [www.manchestercommunitycentral.org](http://www.manchestercommunitycentral.org)

E: [info@manchestercommunitycentral.org](mailto:info@manchestercommunitycentral.org)

T: 0333 321 3021

### **Commission for the Compact**

W: [www.compact.org](http://www.compact.org)

E: [info@thecompany.org.uk](mailto:info@thecompany.org.uk)

T: 0121 237 5900

## 10. Appendix Four: Sample Impact Assessment Form

Part A To be completed by the Council designated officer and sent to organisations at risk of decommissioning together with Part B of the form.

Part B To be completed by the organisation and returned to the Council by the deadline provided below. The form should be typed and returned by email unless reasons are provided why this cannot be done.

<b>Part A</b>	<b>To be completed by commissioner</b>	
<b>Directorate</b>		
<b>Service Area or Funding Programme</b>		
<b>Lead Commissioner</b>		
<b>Designated officer (if different)</b>		
<b>Designated officer telephone</b>		
<b>Designated officer email</b>		
<b>Primary Client Group</b>		
<b>Reason for Impact Assessment e.g:</b> <ul style="list-style-type: none"> <li>- service area review</li> <li>- reduced programme funding</li> <li>- plans to decommission</li> </ul>		
<b>Service Provider – Organisation</b>		
<b>Service Name (if different)</b>		
<b>Summary of Service funded by this grant or contract</b>		
<b>Term of funding</b>	<b>From:</b>	<b>To:</b>
<b>Contract or grant value (per annum)</b>	£	<b>Grant per annum</b>
	£	<b>Contract value per annum</b>
<b>DEADLINE for return of part B</b>		
<b>Return by email to:</b>		

## ORGANISATION IMPACT ASSESSMENT FORM

Before completing this form please check you have Part A for your organisation. This includes the deadline by which this form needs to be returned.. The information you provide may be used to develop a risk management plan should this be necessary. The information will be considered confidential under the data protection act i.e. we will not give information about you to anyone outside Manchester City Council, or use information about you for any other purpose, as stipulated in the Data Protection Act 1998.

<b>Part B: Impact assessment</b>	<b>To be completed by service provider.</b>
Name of Organisation	
Contact in organisation	
Telephone number	
Email	
Service Area or Funding Programme	
Annual funding from the Council	£
I confirm this form is completed to the best of my knowledge and is true and accurate.	Name: Date:
Do you have vulnerable or at risk service users? If yes, please complete Section 1	Please type Yes or No:
If this Council funding ends will the service close? If yes, complete Section 2	Please type Yes or No:
Do you have partners or stakeholders? If yes, please complete Section 3	Please type Yes or No:
<b>SECTION 1</b>	<b>VULNERABLE SERVICE USERS</b>
What vulnerable or at risk client groups use the service?	
Do these service users have individual support plans?	
Do your service users have carers in addition to your project?	
How many service users currently access the service supported by this funding?	
How many of these service users have on-going support needs?	
Who are your main partners in meeting the needs of your service users? e.g. NHS, Police, Adult Services, Volunteers etc	
Note: Following assessment, the Council may need you to provide more information to assess the needs of your service users	
<b>SECTION 2</b>	<b>FINANCIAL AND STAFFING ISSUES</b>
What is your organisation's total annual income for this financial year?	£
What is the unrestricted funding held, as identified in your accounts at end of the last financial year?	£

<b>Part B: Impact assessment</b>	<b>To be completed by service provider.</b>
Will withdrawal of this funding stream from the Council force your organisation to close?	
How many staff are directly employed by this funding?	
What are the staffing implications of withdrawal of this funding e.g. staff contract notice periods and redundancy payments	
<b>SECTION 3</b>	<b>PARTNERS AND STAKEHOLDERS</b>
Does this service have a matched funding arrangement? If yes please give details	
Will partner organisations you work with need to be informed if the service comes to an end? If yes, please give details	
If you identified partner funders or service providers, are you willing to provide the contact details so the Council can inform them of this funding review process.	Please type Yes or No:
<b>SECTION 4</b>	<b>SERVICE IMPLICATIONS</b>
<p>This form is being used because funding you receive from the Council is under review. If the funding programme is closed, or there is a new tendering or grant application process it may be not all currently funded groups continue to be funded. Information you provide will help the Council assess the impact of this.</p> <p>When completing this section please think carefully about opportunities available to your organisation such as charging for membership, alternative funding opportunities, or income generation. Please tell us briefly how a reduction of funding provided by the Council will impact on your organisation and service.</p>	
Please confirm level of funding (see part A)	£
Annual funding reduced by 25%	
Annual funding reduced by 50%	
Funding tapered to end in 12 months	

## 11. Appendix Five: Sample form for Equality Impact Assessment

If a service affected has high relevance to equality and diversity with regard to race, disability, LGBT, age, gender, and faith the Council has 'A Guide to Undertaking Equality Assessments'. The form below sets out what needs to be considered.

Equality Impact Assessment	To be completed by designated officer
Directorate	
Service or funding Programme	
Organisation or programme in scope	
Lead Commissioner	
Designated officer (if different)	
Date of Assessment	
Brief description of key objectives of service being funded	
Does the service monitoring show clear benefit to one or more equality areas:	Race: Type Yes or No:
	Gender: Type Yes or No:
	Disability: Type Yes or No:
	Sexuality: Type Yes or No:
	Age: Type Yes or No:
	Religion and Belief: Type Yes or No:
If yes, who will need to be consulted, or has consultation taken place that will inform the EIA e.g. service users, service partners. Give details:	
<b>Copy and complete the following for each equality area affected</b>	
Equality Area Affected (e.g. race)	
How does the service make a positive impact?	
How is this evidenced?	
If the service makes a positive impact, how will this be safeguarded	
What mitigating actions are possible if decommissioning takes place e.g. will other partners or business planning be able to fill the gap?	

## 12. Appendix Six: Sample file summary of Impact and Risk Assessment

This is an example of a format that can be followed but each directorate will need to consider whether other factors or processes need to be taken into account

FILE SUMMARY		To be completed by designated officer		
Directorate				
Funding Programme				
Organisation under review				
Lead Commissioner				
Designated officer (if different)				
<b>RISK TO SERVICE</b>				
Based on monitoring information on file, what is known about the organisation, other service provision and the impact assessment documents, assess whether the risk is:				
High: If decommissioned there will be a serious gap in service provision and service continuation or alternative provision will need to be considered.				
Medium: The service loss or risk can be mitigated. There will be a reduction in service provision and some residents will be affected, however the organisation may absorb the loss through other income generation and/or there are other service providers.				
Low: The service is no longer considered a priority and the needs of service users can be met in other ways. It may also be that the service is not well managed or value for money.				
		High	Medium	Low
Vulnerable or at risk service users				
Equality Impact Issues				
Service Implications				
<b>RISK TO ORGANISATION</b>				
Organisation risk of closure				
Use the space below to add any comments				
Date assessment completed:				