

Proposed Local Law No.4 Library Services Local Law 2020

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Local Law Community Impact Statement (LLCIS)

Whitehorse Manningham Regional Library Corporation Library Services Local Law No. 4 2020

The Whitehorse Manningham Regional Library Corporation (**Corporation**) provides the following information to the community in respect of the Library Services Local Law No. 4 2020.

1. INTRODUCTION

The Corporation is proposing to make the new Library Services Local Law No. 4 2020 (**proposed Local Law**).

The proposed Local Law will replace the Local Law No. 2 2010 (**current Local Law**), which ceased operation in February 2020, to the extent that the current Local Law regulates the management and control of library services provided by the Corporation.

This Community Impact Statement has been prepared to inform the community about the proposed Local Law and to assist any member of the public who may wish to make a submission to the Corporation during the public consultation process required under the *Local Government Act 1989 (Act)*.

2. BACKGROUND

The Corporation is, by the operation of s 196(7) of the Act, empowered to make local laws for or with respect to any act, matter or thing in respect of which the Corporation has a function or power. This includes the administration of the public library services provided by the Corporation.

The current Local Law addresses range of matters relating to the administration of the public library services provided by the Corporation, including membership of the library services and borrowing and returns.

The Corporation is making the proposed Local Law to provide for the continued regulation of its library services following the expiry of the current Local Law.

3. OVERVIEW OF PROPOSED LOCAL LAW

The purpose of the proposed Local Law is to regulate the administration of the public library services provided by the Corporation, including:

- membership of the public library services;
- conduct of persons attending the library services; and
- the borrowing and return of items.

The proposed Local Law will come into operation on the day following its publication in the Victorian Government Gazette and, unless it is revoked earlier, will expire 10 years after commencement.

Proposed changes brought about by the proposed Local Law are not substantial and will, save for some minor changes, reproduce the provisions of the current Local Law with respect to the administration of the public library services under the management and control of the Corporation.

Changes brought about by the proposed Local Law include new definitions and provisions intended to enhance clarity and specificity in the proposed Local Law, enhanced discretion of the CEO and officers of the Corporation with respect to membership and changes to the operation of replacement charges, such that if a replacement charge is paid for a borrowed item, the member becomes the owner of the item.

Under s 223 of the Act, the Corporation is required to give public notice of the proposed Local Law and invite submissions for a period of at least 28 days.

The statutory consultation period will run from 8 January 2021 to 15 February 2021.

Anyone who makes a written submission can request to be heard in support of their submission at the Board meeting which considers the making of the proposed Local Law, details of which will be provided.

The proposed Local Law has been reviewed by the Corporation's lawyers who confirm that it complies with all regulatory requirements.

A copy of the proposed Local Law is attached (**Attachment 1**) to this Community Impact Statement.

4. EVALUATION OF THE PROPOSED LOCAL LAW

In accordance with Guidelines issued by the Minister for Local Government in relation to the making of local laws, The Corporation has conducted an evaluation of the proposed Local Law. The evaluation is outlined in the following Table.

Issue	Evaluation
Objectives	The objective of the proposed Local Law is to regulate the management and control of library services provided by the Corporation.
Legislative Framework	The Act gives the Corporation broad powers to make local laws with respect to any function or power of the Corporation, subject to the requirement that the local law must be ratified by all the member councils of the Corporation (s 197F of the Act). The proposed Local Law addresses matters within the Corporation's broad functions and powers and will be sent to the Cities of Manningham and Whitehorse for ratification.
State legislation more appropriate	State legislation permits the Corporation to make Local Laws with respect to the management and control of library services provided by the Corporation. In developing the proposed Local Law, the Corporation has not sought to address any issues which it considers are best addressed at the State or Federal level.
Overlap with existing legislation	The proposed Local Law does not overlap with existing legislation, rather it operates in conjunction with the requirements of the Act.
Planning Scheme	Not applicable.

Issue	Evaluation
Legislative Approach	<p>The Corporation has taken a medium impact regulatory approach to the regulation of the management and control of library services provided by the Corporation. Whilst being largely prescriptive, the proposed Local Law retains a level of discretion which is considered appropriate to facilitate the effective administration of the library services and the orderly conduct of users.</p> <p>All provisions of the proposed Local Law are open to public scrutiny and comment.</p>
Performance Standards or Prescriptive Details	<p>The Corporation has adopted a prescriptive approach to the proposed Local law because its purpose is to prescribe:</p> <ul style="list-style-type: none"> • eligibility criteria for membership and circumstances in which membership ceases; • the conduct expected of users of the library services; and • the circumstances in which items may be borrowed and returned to the library services.
Risk Assessment	<p>No formal risk assessment has been undertaken.</p> <p>The Corporation does not consider that there are any risks associated with the proposed Local Law.</p>
Measures of Success	<p>The success of the proposed Local Law will be measured by monitoring the level of compliance with the proposed Local Law.</p>
Permits and Fees	<p>The proposed Local Law makes provision for the Corporation to prescribe fees and charges for the use of the library services from time to time.</p>
Penalties	<p>The proposed Local Law does not make provision for any offences or the imposition of any penalties.</p>
Restriction of competition	<p>Not applicable.</p>
Comparison with other regional library corporations	<p>In drafting the proposed Local Law, the Corporation examined Local Laws from a number of like and neighbouring regional library corporations to assess similarities and differences and ensure a reasonable degree of consistency in content, approach and penalties.</p>
Charter of Human Rights	<p>The <i>Charter of Human Rights and Responsibilities Act 2006 (Charter)</i> contains twenty basic rights that promote and protect the values of freedom, respect, equality and dignity. Regional library corporations must not knowingly be in breach of these rights and must always consider them when they create laws, develop policies and deliver services.</p> <p>The rights under the Charter that may be engaged by the proposed Local Laws are the:</p> <ul style="list-style-type: none"> • right to freedom of expression; and • right to take part in public life. <p>The proposed Local Law has been reviewed for compatibility with the Charter and is considered to be compatible with the Charter. To the extent that those rights might be limited by the proposed Local Law, those limitations are reasonable and demonstrably justified.</p>

Issue	Evaluation
Community Consultation	<p>The proposed Local Law has been reviewed in consultation with Administrators, members of Corporation staff, the Corporation's member councils and the Corporation's legal advisers.</p> <p>A community consultation process will be conducted in accordance with ss 119(2) and 223 of the Act.</p> <p>This will require the Corporation to give public notice of its intention to make the proposed Local Law and provide members of the public with an opportunity to make a written submission to the Corporation in relation to the proposed Local Law. The Corporation will consider submissions received before making a final decision on the proposed Local Law.</p> <p>A person who makes a written submission is entitled to request (in the submission) to be heard by the Corporation in support of his/her submission. When the Corporation makes a final decision on the proposed Local Law, it must notify in writing each submitter of the decision and the reasons for the decision.</p> <p>This Community Impact Statement has been prepared to inform the community about the proposed Local Law and to assist any member of the public who may wish to make a submission to the Corporation.</p>



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**WHITEHORSE MANNINGHAM
REGIONAL LIBRARY CORPORATION**

LOCAL LAW NO 4

LIBRARY SERVICES LOCAL LAW

LIBRARY SERVICES LOCAL LAW

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PART I
PRELIMINARY

1.1 TITLE

- 1.1.1 This Local Law will be known as the Whitehorse Manningham Regional Library Corporation Library Services Local Law No. 4 and referred to below as this Local Law.

1.2 OBJECTIVES OF THIS LOCAL LAW

- 1.2.1 To regulate the management and control of library services provided by the Whitehorse Manningham Regional Library Corporation.

1.3 POWER TO MAKE THIS LOCAL LAW

- 1.3.1 The power to make this Local Law is contained in sections 111 and 197F of the *Local Government Act 1989*.

1.4 OPERATIONAL DATE OF THIS LOCAL LAW

- 1.4.1 This Local Law operates from the day following publication in the Victoria Government Gazette.

1.5 DATE THIS LOCAL LAW CEASES OPERATION

- 1.5.1 Unless this Local Law is revoked sooner, its operation will cease ten years after it became operative.

1.6 SCOPE OF THIS LOCAL LAW

- 1.6.1 This Local Law shall apply to and have operation throughout the library services operated by the Corporation and within the municipal districts of the Cities of Whitehorse and Manningham.

1.7 DEFINITIONS

1.7.1 In this Local Law, the words listed below have the meaning indicated:

Words	Meaning
Act	The <i>Local Government Act</i> 1989.
Applicant	Any person applying to become a Member.
Assistance Dog	Has the same meaning as in the <i>Equal Opportunity Act</i> 2010.
Authorised Officer	A person appointed by the Corporation as an authorised officer under section 224 of the Act.
Board	The governing body of the Whitehorse Manningham Regional Library Corporation.
CEO	The person appointed by the Corporation as Chief Executive Officer and includes a person acting in that position.
Corporation	The Whitehorse Manningham Regional Library Corporation.
Electronic Device	A device that enables access to or use of an electronic communication service, remote computing service, or location information service
Item	Includes any and every book, magazine, newspaper, pamphlet, video recording, digital video recording, music score, picture, print, map, chart, manuscript, toy, reading or listening equipment, electronic resource, compact disk, audio tape recording, software program or any other article forming part of the contents of the Library available for borrowing, reference or perusal whether or not the property of the Corporation.
Library	All the library facilities, resources and activities provided by or under the management or control of the Corporation.
Library Service	All or any Library outlet under the management and control of the Corporation, and includes without limiting the generality of the foregoing, all buildings or portions thereof, mobile libraries and other areas, facilities and vehicles used in connection with the provision of the library service.
Library Service Area	The whole of the municipal districts of Whitehorse and Manningham City

Councils.

Member

A person, school or institution holding a current and valid membership card issued in accordance with this Local Law.

Membership Card

A current and valid card issued to a Member by the Library in either physical or electronic form in accordance with this Local Law as an authority to borrow items.

Officer

Any employee of the Corporation.

Patron

Any person making use of the Library Service.

PART 2

ADMINISTRATION OF THIS LOCAL LAW

2.1 EXERCISE OF DISCRETIONS

- 2.1.1 In exercising any discretion contained in this Local Law the Corporation must have regard to:
- a. the objectives of this Local Law; and
 - b. any guidelines or policies made by the Corporation from time to time.
- 2.1.2 The Corporation may from time to time make guidelines for use by the Corporation, its Officers and other persons for the purposes of this Local Law.
- 2.1.3 Guidelines made by the Corporation must not be inconsistent with the objectives of this Local Law.

2.2 POWER OF THE CEO

- 2.2.1 Any person using the Library Service shall obey the lawful directions of the CEO or an Authorised Officer in charge of the Library Service generally or any branch, section or portion thereof.

2.3 APPEALS

- 2.3.1 Any person who is aggrieved by any decision made under this Local Law may apply to the Corporation to be heard and may make a written submission for consideration by the Corporation, but this right will not in any way remove that person's obligation to act in accordance with any directions or notices which are applicable under this Local Law.

PART 3
MEMBERSHIP

3.1 ELIGIBILITY

3.1.1 Subject to the approval of the CEO or an Authorised Officer, the following persons shall be eligible to become Members:

- a. any ratepayer of the Whitehorse City Council or Manningham City Council;
- b. any resident of Whitehorse City Council or Manningham City Council;
- c. any person enrolled to vote at the most recent general election for the Manningham City Council or the Whitehorse City Council;
- d. any person eligible to join another Victorian Government subsidised public library;
- e. any temporary visitor to the Library Service Area provided that they comply with Part 4; and
- f. any other person or class of persons as the Corporation may determine from time to time.

3.1.2 All persons in the categories listed in Clause 3.1.1 of this Local Law shall provide such proof of eligibility as may be required by the CEO or Authorised Officer determining their eligibility for membership.

3.2 INSTITUTIONAL MEMBERSHIP

3.2.1 Institutional membership may be extended to any association, society, school, institution, business or agency at the discretion of the CEO or an Authorised Officer.

3.3 APPLICATION

- 3.3.1 Persons wishing to borrow Items or use other designated services shall:
- a. complete and sign the appropriate application form or other such application process, which shall include an undertaking to comply with the provisions of this Local Law and any policy from time to time adopted by the Board or CEO;
 - b. satisfy the CEO or an Authorised Officer that he or she (or guarantor of an applicant under 18 years of age) is eligible for membership, providing proof of name and current address; and
 - c. in the case of persons under the age of 18 years, provide an undertaking duly signed by a parent/legal guardian of the applicant to the effect that he or she will comply with this Local Law and any policies adopted from time to time by the Board or the CEO.

3.4 PERIOD OF MEMBERSHIP

- 3.4.1 Membership shall be current for a period of three (3) years unless suspended or cancelled earlier.
- 3.4.2 Persons whose membership has lapsed may be required by the CEO or Authorised Officer to re-register before borrowing Items or otherwise using the Library Service.

3.5 CESSATION AND CANCELLATION OF MEMBERSHIP

- 3.5.1 A Member will cease to be a Member if:
- a. three (3) years elapse from the date on which his or her application was granted;
 - b. he or she ceases to be eligible for membership; or
 - c. the CEO is satisfied that the Member has contravened, or failed to comply with any provision of this Local Law or a policy adopted by the Board or the CEO and communicated to the Member.

- 3.5.2 The CEO or Authorised Officer may suspend or cancel the membership of any Member who refuses to:
- a. return Items borrowed;
 - b. pay overdue, lost or damaged Item charges; or
 - c. comply with any lawful request or action by the CEO or Authorised Officer under this Local Law.
- 3.5.3 The CEO or Authorised Officer may, when cancelling or suspending a membership under clause 3.5.2, impose such conditions on the reinstatement of that membership as they consider appropriate.

3.6 MEMBERSHIP CARD

- 3.6.1 Every Member on being issued with a membership card shall:
- a. be responsible for the safe custody of the membership card;
 - b. produce the membership card to the CEO or an Authorised Officer whenever requested;
 - c. report the loss, theft or destruction of the membership card to the CEO or an Authorised Officer immediately such loss is discovered;
 - d. notify any change of address to the CEO or an Authorised Officer; and
 - e. surrender the membership card to the CEO or an Authorised Officer on ceasing to be eligible for membership.
- 3.6.2 Membership cards are not transferable.
- 3.6.3 A Member is responsible for the safe care of every Item borrowed on his or her membership card.
- 3.6.4 If a membership card is lost or destroyed, the CEO may issue to the Member a replacement card upon their reporting of the loss, theft or destruction and payment of any fee fixed by resolution of the Board as being payable in the event of a replacement membership card being issued.

PART 4
BORROWING AND SERVICES

4.1 ACCESS AND CONDUCT

- 4.1.1 Subject to the provisions of this Local Law, any person shall have access to the Library to use all Library Services, resources and facilities provided for public use.
- 4.1.2 Persons shall enter only those parts of the Library open for public use and during the hours of opening fixed by the Board, except with the permission of the CEO or an Authorised Officer.
- 4.1.3 Every person shall leave the Library at the times fixed for closing the Library or at the request of the CEO or an Authorised Officer.
- 4.1.4 All users shall have access to all Items in the Library for consultation on the premises, with the exception of Items determined by the CEO or an Authorised Officer to be unavailable for lending or on restricted access.
- 4.1.5 The Library shall not, subject to clause 3.3.1(c), prevent a person who is under the age of 18 from borrowing any Items unless persons under the age of 18 years are prohibited by legislation from doing so.
- 4.1.6 Patrons shall not behave in a manner that unreasonably interferes with any other person's use and enjoyment of the Library.
- 4.1.7 Patrons shall not eat or drink whilst in the Library unless in a specially designated area or otherwise with the consent of the CEO or an Authorised Officer.
- 4.1.8 The CEO or an Authorised Officer may request a person to leave the Library if that person commits an offence against this Local Law.
- 4.1.9 The CEO or an Authorised Officer may refuse any person, including a Member, admission to the Library if:
- a. that person appears to be in a drunken or intoxicated condition, or under the influence of any prohibited drug;
 - b. that person is accompanied by an animal, mammal, bird or reptile; (except an Assistance Dog);
 - c. that person is carrying a firearm or other offensive weapon;
 - d. that person is not decently attired; or
 - e. that person is under the age of 10 years and is not in the apparent care of a responsible person.

4.1.10 A person must not, without the authority of the Board or the CEO:

- a. consume any intoxicating liquor, or supply or sell any intoxicating liquor to any person or persons, within the Library;
- b. consume any drugs, or supply or sell any drugs to any person or persons, within the Library;
- c. smoke in any area of the Library or within five metres of an external entrance, window or airlock;
- d. erect, fix or place any advertisements or notices within the Library;
- e. distribute any handbills, pamphlets, advertisements or notices within the Library or give a public address;
- f. organise, hold or attend any rally, procession, demonstration or other public gathering within the Library;
- g. sell or expose or offer for sale within the Library any food, drink or other article;
- h. conduct any commercial activity within the Library;
- i. make a collection of money within the Library;
- j. permit any animal owned by him or her or of which he or she is in charge to be within the Library (except an Assistance Dog);
- k. ride any skateboard, bicycle or other recreational vehicle into or within the Library;
- l. enter any area of the Library which is designated or set aside for the exclusive use of the Board members, the CEO or other Officers; or
- m. enter or use any room which has been designated or set aside for persons of the opposite sex unless that person is a child under the age of six (6) years who is in the care of a responsible person.

4.1.11 A person must not:

- a. behave in a disorderly manner while within the Library;
- b. create or take part in a fight, act of violence or act of disturbance within the Library;

- c. use any offensive, indecent or abusive language while within the Library;
- d. offend against decency while within the Library, whether by reason of dress or conduct or by their use of information technology, Electronic Devices or Internet access;
- e. emit or cause to be emitted such a volume of noise as to interfere with the use and enjoyment of the Library by other persons;
- f. endanger any other person or persons within the Library;
- g. destroy, deface, defile or damage, remove or interfere with any Library materials, notice, equipment, furniture, fixture, fitting, carpet, ceiling, wall or plant within the Library;
- h. leave within the Library any litter, other than in a bin or receptacle provided for such purpose;
- i. engage in any unlawful activity; or
- j. remain within the Library after having been directed to leave by the CEO, an Authorised Officer or a member of the Victoria Police.

4.2 BORROWING

- 4.2.1 Members shall be entitled to borrow Items from the Library subject to the provisions of this Local Law.

4.3 MAXIMUM NUMBER OF ITEMS BORROWED

- 4.3.1 The CEO or an Authorised Officer shall make rules from time to time stating the maximum number of Items which may be borrowed at any one time.

4.4 GUARANTEE

- 4.4.1 Persons under the age of 18 may be required by the CEO or an Authorised Officer to have a guarantee to make good the loss of or damage to any Item whilst in the Member's use or possession signed by an adult.

4.5 PERSONAL DETAILS

- 4.5.1 Personal details of Members including information held in files outside the Library and in computer files, required for membership registration purposes, shall be managed in accordance with the Information Privacy Policy of the Library, the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001*.
- 4.5.2 Membership and circulation statistics shall be produced by the Library in a de-identified form so that individual Members cannot be identified from those statistics.

4.6 PERSONAL ITEMS

- 4.6.1 Patrons may, with the consent of the Chief Executive Officer or an Authorised Officer, bring into the Library reading or writing materials, bags, parcels or other articles. Large bags and trolleys shall be left in designated areas while their owners are using the Library.
- 4.6.2 Any container or receptacle brought into the Library may be opened for inspection on the request of the CEO or Authorised Officer as the user leaves the Library.

4.7 USE OF FACILITIES AND EQUIPMENT

- 4.7.1 Patrons may use equipment and facilities provided for public use.
- 4.7.2 The CEO or Authorised Officer may determine procedures or guidelines for the use of facilities and equipment by patrons

4.8 UNATTENDED CHILDREN

For the safety and comfort of children under the age of 10 years:

- 4.8.1 A responsible parent / carer:
- a. must accompany a child while they are using the Library Services;
and
 - b. is responsible for the child's welfare and for monitoring and regulating their behaviour.

PART 5
RETURN OF ITEMS

5.1 DATE OF RETURN

- 5.1.1 The time allowed for retaining an Item and the date for return shall be clearly indicated to the Member at the time of borrowing.
- 5.1.2 A Member may apply by telephone, webform or in person for extension of the time allowed for retaining an Item and, where the request has been received prior to the date the Item is to be returned to the Library, such extension will, subject to clause 5.1.3, be granted if the Item has not been reserved by another Member.
- 5.1.3 The Corporation may grant an extension of the time allowed for retaining an Item without application under clause 5.1.2, if the CEO or an Authorised Officer considers that it is appropriate to do so.

5.2 RETURNS

- 5.2.1 No Item shall be deemed to have been returned to the Library unless it has been:
- a. handed to the CEO or an Authorised Officer;
 - b. left in a place or receptacle designated for the return of Items; or
 - c. dispatched to the Library by a means previously approved by the CEO or an Authorised Officer.

5.3 REPLACEMENT CHARGES

- 5.3.1 Items stolen or lost shall remain the property of the Corporation until the replacement charge is paid by the responsible Member.
- 5.3.2 Upon payment of a replacement charge ownership of the Item will transfer to the Member.
- 5.3.3 No refund of the replacement charge will be payable, including in the event that the Item in respect of which the replacement charge is paid is recovered.

5.4 ITEMS DAMAGED OR NOT RETURNED

- 5.4.1 A Member is responsible for reporting to the CEO or an Authorised Officer any damage discovered in any Item on loan to him or her, either at the time of borrowing or immediately on return.
- 5.4.2 If an Item is:
- a. not returned;

- b. returned with damage necessitating withdrawal of the Item from the collection;
- c. returned with partial damage which requires repair but does not necessitate withdrawal of the Item from the collection; or
- d. stolen from a Member,

the Member shall pay to the Corporation the:

- e. full replacement value of the Item; or
- f. reasonable cost of repairing the Item; and
- g. administration costs associated with replacement or repair of the Item,

as directed by the CEO, in his or her absolute discretion.

- 5.4.3 The CEO or an Authorised Officer may take such action as deemed necessary for the recovery of an Item or the value thereof at any time after the Item becomes overdue and all or any costs associated with such recovery will be charged to the Member.

PART 6

FEEES AND CHARGES

6.1 SETTING FEES AND CHARGES

- 6.1.1 The Corporation may fix and levy such fees and charges for use of the Library Service as it determines from time to time.

6.2 WAIVER OR ALTERATION TO FEES AND CHARGES

- 6.2.1 The Corporation may waive, reduce or alter any fee or charge with or without conditions.

This Local Law was made by resolution of the Whitehorse Manningham Regional Library Corporation on (# Date #).

THE COMMON SEAL of the)
WHITEHORSE)
MANNINGHAM)
REGIONAL LIBRARY)
CORPORATION)
was affixed hereto in the)
presence of:)
)

_____Chairperson

_____Chief Executive Officer

The Board resolved to give notice of its intention to make this Local Law at its meeting held on (# Date #)and this was duly advertised in the Victoria Government Gazette on (# Date #) and The Age on (# Date #).

The Board resolved to adopt this Local Law at its meeting held on (# Date #).

In accordance with section 197F of the Act, this Local Law was ratified by the Manningham City Council on (# Date #)and the Whitehorse City Council on (# Date #).

The making of this Local Law was duly advertised in the Victoria Government Gazette on (# Date #)and The Age on (# Date #).
