

Full Council

Thursday, 21st July, 2016, Council Chamber, County Hall, Preston

Question time begins at 1.30 pm.

Full Council begins at 2pm or at the end of Question Time, whichever is earlier.

Agenda

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 9. **Report of County Council Committees**

To receive reports from:

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 - (d) **Report of the Urgency Committee** (Pages 125 - 126)
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(Pages 127 - 130)

NOTICE OF MOTION SUBMITTED TO FULL COUNCIL 210716

C. Notice of Motion

To consider any Notices of Motion submitted under Standing Order No. 14.2.1.

Jo Turton
Chief Executive

County Hall
Preston

20 July 2016

Agenda Item 3

Minutes

At a meeting of the Full Council held at Council Chamber, County Hall, Preston, on Thursday, 26th May, 2016

Present:

County Councillor Margaret Brindle (Chairman)

County Councillors

T Aldridge	K Ellard	M Otter
A Ali	J Fillis	M Parkinson
T Ashton	J Gibson	N Penney
A Atkinson	G Gooch	S Perkins
A Barnes	M Green	M Perks
M Barron	J Hanson	C Pritchard
L Beavers	Dr M Hassan	S Prynne
D Borrow	P Hayhurst	P Rigby
P Britcliffe	C Henig	A Schofield
I Brown	N Hennessy	K Sedgewick
K Brown	S Holgate	S Serridge
T Brown	D Howarth	J Shedwick
P Buckley	K Iddon	R Shewan
A Cheetham	M Iqbal	D T Smith
A Clempson	A James	K Snape
D Clifford	M Johnstone	D Stansfield
Mrs F Craig-Wilson	A Jones	J Sumner
L Collinge	A Kay	V Taylor
C Crompton	D Lord	M Tomlinson
M Dad	T Martin	D Watts
B Dawson	J Mein	D Westley
F De Molfetta	Y Motala	D Whipp
C Dereli	B Murray	G Wilkins
G Dowding	D O'Toole	B Winlow
G Driver	J Oakes	

1. Apologies and Announcements

Announcements

The Chairman reported the following deaths:

County Councillor Michael Devaney who passed away on 19 May 2016. Councillor Devaney was elected as a Conservative member to the County Council

in 2009 and represented the electoral division of Chorley Rural North. During this time he held the positions of Chairman of the County Council in 2013/2014 and was Chair of Development Control in 2012/13. He served on a number of Council Committees including Children's Services Scrutiny, Pension Fund, Urgency, Regulatory and Scrutiny Committee.

Former County Councillor Mrs Dorothy Ramsden died on 19 May 2016. Mrs Ramsden was elected as a Conservative member to the County Council from 1985 to 1993 and represented the Rossendale Haslingden electoral division. During this time she served on the Education, Police, Policy and Resources and Social Services Committees.

A number of members spoke in memory of the deceased and offered condolences to their family and friends. The Full Council stood in silent tribute and memory of the two former members.

Report of the Returning Officer on the Election of a County Councillor for the Lancaster East Electoral Division

The Chief Executive, as Returning Officer reported that Lizzi Collinge of the Labour Party was elected as County Councillor representing the Lancaster East Electoral Division on 5 May 2016.

Association of Public Sector Excellence (APSE) - Local Authority Apprentice and Training Awards

The Chairman was pleased to announce that one of the County Council's Apprentices, Cameron Newsham made it to the final in the recent APSE local authority apprentice and training awards which were held in Newcastle in March 2016.

Unfortunately Cameron did not win but the panel commented on the extremely high calibre of candidates and Cameron received well deserved praise for reaching the final and was congratulated on his achievement.

The Full Council was informed that the County Council had been formally recognised for its commitment and involvement in supporting and developing its future tradespeople.

Cameron attended Full Council with his manager, Ridwan Musa, Highways Manager South, Community Services and was congratulated by members.

Reflections Restaurant

The Chairman informed Full Council that Reflections Restaurant had recently been awarded a 5 star Hygiene Award following an unannounced inspection by Preston City Council Environmental Health Services.

The Chairman was pleased to report that the inspection had resulted in the following:-

- Compliance with food hygiene and safety procedures – Score A.
- Compliance with structural requirements – Score A.
- Confidence in management/control procedures – Score A.
- Food Hygiene Rating - Score 5.

In order to get the top rating of 5 it was necessary to do well in all of the three elements. Reflections and in particular the staff were congratulated on achieving the 5 star rating.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

The Full Council was notified that Members had been invited to make declarations of Pecuniary and Non-pecuniary interests in matters on the agenda in accordance with the County Council's Code of Conduct for Members.

No declarations were made.

3. Election of Chairman

County Councillor Margaret Brindle, the retiring Chair of the County Council presided for this item.

It was moved by County Councillor Clifford and seconded by County Councillor Ali that County Councillor Janice Hanson be elected Chairman of the County Council.

There being no other nominations, it was:

Resolved: That County Councillor Janice Hanson be elected Chairman of the County Council until the Annual General Meeting of the Full Council in 2017.

County Councillor Hanson then took the Chair and made her Declaration of Acceptance of Office.

4. Appointment of Vice Chairman

It was moved by County Councillor Fillis and seconded by County Councillor De Molfetta that County Councillor Terry Aldridge be appointed Vice-Chairman of the County Council.

There being no other nominations, it was:

Resolved: That County Councillor Terry Aldridge be appointed Vice-Chairman of the County Council until the Annual General meeting of the Full Council in 2016.

County Councillor Terry Aldridge then took his place and made his Declaration of Acceptance of Office.

5. Confirmation of the minutes from the meeting held on 24 March 2016

Resolved: That the Minutes of the meeting of the County Council held on 24 March 2016 be confirmed and signed by the Chair.

6. Membership of Committees and Related Appointments for 2016/17

The Full Council was asked to:

- i. Determine the constitution and membership of Committees for 2016/17, as set out at a) in the report now presented; and
- ii. Consider the appointment of the Chairs and Deputy Chairs of Committees for 2016/17 as set out a b) in the report now presented.

The Leader moved the report and proposed the names of Chairs and Deputies to be appointed, as set out below.

Resolved: That

- i. The appointment of Members to Committees for 2016/17 in the proportional balances set out in the report now presented be approved, on the basis of nominations being made by the respective Political groups in writing to the Director of Governance, Finance and Public Services.
- ii. The appointments of Chairs and Deputy Chairs of Committees for 2016/17, as now reported and set out below, be approved.

Committee	Chair	Deputy
Urgency	Jennifer Mein	David Borrow
Overview and Scrutiny		
Scrutiny	Bill Winlow	Alison Barnes
Children's Services Scrutiny	Gina Dowding	Susie Charles
Health Scrutiny	Steve Holgate	Yousuf Motala
Education Scrutiny	Cynthia Dereli	Peter Buckley
Executive Scrutiny	Bill Winlow	Alison Barnes
Other Committees		
Development Control	Munsif Dad	Kevin Ellard
Regulatory	Jackie Oakes	Kim Snape
Audit & Governance	Terry Brown	Darren Clifford
Pension Fund	Kevin Ellard	Miles Parkinson
Corporate Complaints	Mohammed Iqbal	Terry Brown
Student Support Appeals	Sue Pryn	Cynthia Dereli
Employment	Jennifer Mein	David Borrow
Conduct	Jennifer Mein	David Borrow
Lancashire Health & Wellbeing Board	Jennifer Mein	-

7. Appointments to the Local Government Association – General Assembly, Special Interest Group on Coastal Issues and County Councils’ Network for 2016/17

The Full Council was asked to approve the appointment of representatives to serve on the Local Government Association (LGA) General Assembly for 2016/17 and to attend the Annual General meeting of the General Assembly on 5 July 2016. The Full Council was also asked to appoint a representative to serve on the LGA Special Interest Group on Coastal Issues for 2016/17 and up to four representatives to serve on the County Council's Network in 2016/17.

Resolved: That,

- i. County Councillors Jennifer Mein, David Borrow, Marcus Johnstone and Geoff Driver, CBE be appointed to serve as the County Council's representatives on the Local Government Association (LGA) General Assembly for 2016/17.
- ii. The representatives approved at (i) above (or nominated substitutes) together with County Councillor Bill Winlow from the Liberal Democrat group, acting in an observer capacity, be authorised to attend the 2016 Annual Meeting of the LGA General assembly to be held in Bournemouth on 5 July 2016, and that County Councillor Mein carry the County Council's 12 corporate votes.
- iii. The appointment of a County Councillor to serve on the Special Interest Group on Coastal Issues for 2016/17 to be confirmed by the Leader of the Council.
- iv. The appointment of County Councillors to the County Council's Network was to be confirmed by the Leader of the Council.

8. Combined Fire Authority (CFA) Appointment of County Council Representatives 2016/17

The Full Council was asked to approve the appointment of 19 Members to serve on the Lancashire Combined Fire Authority until the Annual Meeting of the Full Council in 2017 on the basis of 9 Labour Members; 8 Conservative Members; 1 Liberal Democrat Members and 1 Independent Member.

Resolved: That the following Members be appointed to serve on the Lancashire Combined Fire Authority (CFA) until the Annual General meeting of the Full Council in 2017.

Labour	Conservative	Liberal Democrat	Independent
Terry Burns	Mark Perks	Jeff Sumner	Liz Oades
Steven Holgate	Peter Britcliffe		
Miles Parkinson	Ken Brown		
Niki Penny	David Stansfield		
Alison Barnes	Michael Green		
Carl Crompton	David O'Toole		
Frank De Molfetta	John Shedwick		
Terry Aldridge	Vivien Taylor		
Ron Shewan			

9. Police and Crime Panel - Appointment of a County Council Representative for 2016/17

The Full Council was asked to approve the appointment of one Member to serve on the Police and Crime Panel for Lancashire until the Annual Meeting of the Full Council in 2017.

Resolved: That County Councillor Julie Gibson be appointed as the County Council's representative on the Police and Crime Panel until the Annual Meeting of the County Council in 2017.

10. Report of the Cabinet (Part B)

The Leader of the Council moved Part B of the report of the Cabinet from its meetings on 14 April and 12 May 2016.

Resolved: That Part B of the report of the Cabinet from its meetings on 14 April and 12 May be noted.

11. Report of Urgent Key Decisions

Resolved: That the report of Urgent Key Decisions taken by the Leader of the County Council, Deputy Leader of the County Council, the Cabinet Member for Highways and Transport and the Cabinet Member for Environment, Planning and Cultural Services during the preceding three months, as now presented be noted.

12. Urgent Determination Outside Budget Framework

Resolved: That the report of urgent determinations outside of the Budget framework, as now presented, be noted.

13. The Overview and Scrutiny Committees

County Councillor Bill Winlow presented the reports of the Overview and Scrutiny Committees as follows:

- Children's Services Scrutiny Committee – 9 March, 20 April
- Education Scrutiny – 5 April
- Health Scrutiny – 15 March and 26 April
- Scrutiny – 26 February and 8 April

Resolved: That the reports of the Overview and Scrutiny Committees as now presented, be noted.

13. Report of the Audit and Governance Committee

County Councillor Terry Brown presented the report of the Audit and Governance Committee on 9 May 2016.

Resolved: That the report of the Audit and Governance Committee as now presented, be noted.

14. Report of the Lancashire Combined Fire Authority

County Councillor Frank De Molfetta presented the report of the Lancashire Combined Fire Authority from its meeting on 25 April 2016.

Resolved: That the report of the Lancashire Combined Fire Authority, as now presented, be received.

15. Notices of Motion submitted under Procedural Standing Order 14.2.1(a) (Part C)

1. It was moved by County Councillor Hennessy and seconded by County Councillor Driver that:

Academy Schools

This Council recognises, and supports, the strong historic relationship between the County Council and our schools.

Council extends its thanks and congratulations to all, including Parent Governors, who work in education across our County in providing the best of opportunities for our young people to grow and thrive.

Whilst welcoming the changes to the proposed policy of compelling schools to become Academies, Council is concerned that the Secretary of State still intends to introduce measures to enable her to insist that schools become Academies if they are graded below 'Good' by OFSTED or if significant numbers of schools in a local authority area become Academies.

Council believes that the obsession with school structures, rather than focussing on outcomes for children, has caused unease and uncertainty across the sector, deflecting the attention of Head Teachers and Governors from their focus of providing the best education that they can.

Council therefore instructs the Chief Executive to write to the Secretary of State for Education and all Lancashire MP's welcoming the change of policy and committing the Council to continue working with all involved in Lancashire children's education to ensure the very best outcomes in the future stating that:

- (i) Over 90% of Lancashire's schools are rated as 'good' or 'outstanding' by OFSTED
- (ii) There is no evidence to support the view that Academies produce better results than local authority schools.
- (iii) Currently, where a local authority school requires improvement, the Council provides help and advice from its highly skilled and professional team of officers. This is not necessarily so with Academies and the Government's proposals are not clear as to how failing Academies will be helped to improve.
- (iv) Council is concerned that there are no proposals in the White Paper to reimburse local authorities for the significant costs that would be incurred in the process of converting to Academies and objects to the proposal to transfer council owned land on which schools are built to the Secretary of State.
- (v) Council is also concerned that local authorities will be left with insufficient authority to carry out the proposed residual duties recommended in the White Paper, particularly those relating to:
 - (a) ensuring that every child has a school place;
 - (b) ensuring the needs of vulnerable children, particularly SEND pupils, are met;
 - (c) acting as champion for all parents and families;
- (vi) Council considers that the proposed Regional School Commissioners, to whom Academies will be responsible and to whom parents can raise their concerns, are both unelected and remote. They are a very poor substitute for the current system where parents can raise their concerns with their local Council and Councillors who are known and accountable to them and who know the local schools and the communities they serve.

On being put to the vote the motion was CARRIED and it was:

Resolved: That,

This Council recognises, and supports, the strong historic relationship between the County Council and our schools.

Council extends its thanks and congratulations to all, including Parent Governors, who work in education across our County in providing the best of opportunities for our young people to grow and thrive.

Whilst welcoming the changes to the proposed policy of compelling schools to become Academies, Council is concerned that the Secretary of State still intends to introduce measures to enable her to insist that schools become Academies if they are graded below 'Good' by OFSTED or if significant numbers of schools in a local authority area become Academies.

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 - (b) ensuring the needs of vulnerable children, particularly SEND pupils, are met;
 - (c) acting as champion for all parents and families;
- (vi) Council considers that the proposed Regional School Commissioners, to whom Academies will be responsible and to whom parents can raise their concerns, are both unelected and remote. They are a very poor substitute for the current system where parents can raise their concerns with their local Council and Councillors who are known and accountable to them and who know the local schools and the communities they serve.

2. It was moved by County Councillor Holgate and seconded by County Councillor Brown that:

Chorley A&E

Council is concerned that the closure of the A&E service in Chorley Hospital is an early symptom of an emerging national problem in the NHS.

The Council recognises the financial pressures faced by the NHS and the national shortage of doctors, nurses and other clinical staff which has led to the closure of the A&E in Chorley and is very concerned about the impact on other local NHS services, particularly nearby A&Es across Lancashire.

The County Council is concerned that not only is there a shortage of A&E doctors but also an acute and growing problem with a lack of GPs across the County, coupled with other cuts across the public sector. This problem is also becoming increasingly serious as the age profiles of GPs in Lancashire suggests many more GPs will retire in the next few years than are currently entering into the service.

The County Council's Scrutiny Committee have met with the officials running Chorley Hospital and appreciate the situation they find themselves in. However, the County Council believes their situation is a forerunner of many of the problems of the NHS in England and require a national rather than simply a local solution for the future. Put simply, we need more nurses, junior doctors and GPs.

The Council therefore instructs the Chief Executive to write to the Secretary for Health and to the Prime Minister to ask for an urgent meeting to discuss the crisis in the NHS in Chorley and its impact on the people of Lancashire and what steps it intends to take to deal with these issues in the immediate future and in the longer term.

On being put to the vote the motion was CARRIED and it was:

Resolved: That,

Council is concerned that the closure of the A&E service in Chorley Hospital is an early symptom of an emerging national problem in the NHS.

The Council recognises the financial pressures faced by the NHS and the national shortage of doctors, nurses and other clinical staff which has led to the closure of the A&E in Chorley and is very concerned about the impact on other local NHS services, particularly nearby A&Es across Lancashire.

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3. It was moved by County Councillor Atkinson and seconded by County Councillor Driver that:

Subsidised bus service through Sabden

Council notes that CC Fillis did not accept the recommendation of the Working Group to introduce a subsidised bus service through Sabden.

Council therefore resolves to instruct the Officers to negotiate with local Bus Companies to introduce a modified service to the one agreed by the Working Group which would provide a service through the village at 7am, 8am, noon, 5pm and 6pm. The cost of this service can be funded from the unspent balance of the £2m allocated to the Working Group.

The following amendment was proposed but ruled out of order as the amendment related to a function of the Executive and not the Council:

Council notes that CC Fillis did not accept the recommendation of the Working Group to introduce a subsidised bus service through Sabden.

Council agrees in principle to provide socially necessary bus services for residents in Sabden and resolves to implement the officer recommendations to the bus services working group.

The following amendment was moved by County Councillor Hayhurst and seconded by County Councillor Winlow:

Council notes that CC Fillis did not accept the recommendation of the Working Group to introduce a subsidised bus service through Sabden.

Council therefore resolves to instruct the Officers to negotiate with local Bus Companies and that the decision as to whether to subsidise a bus service to serve Sabden should be reconsidered in six month's time.

A recorded vote on the amendment was then taken. The names of county councillors who voted for or against the amendment and those who abstained were as follows:

For (40)

T Aldridge	M Dad	C Henig	M Parkinson
A Ali	B Dawson	N Hennessy	N Penney
A Barnes	F De Molfetta	S Holgate	C Pritchard
L Beavers	C Dereli	D Howarth	S Pryn
D Borrow	K Ellard	M Iqbal	S Serridge
M Brindle	J Fillis	M Johnstone	R Shewan
T Brown	J Gibson	T Martin	K Snape
D Clifford	J Hanson	J Mein	M Tomlinson
L Collinge	M Hassan	Y Motala	D Watts
C Crompton	P Hayhurst	B Murray	B Winlow

Against (32)

A Atkinson	A Cheetham	K Iddon	M Perks
M Barron	A Clempson	A James	P Rigby
P Britcliffe	F Craig-Wilson	T Jones	A Schofield
K Brown	C Dowding	A Kay	K Sedgewick
I Brown	G Driver	D Lord	J Shedwick
P Buckley	G Gooch	D O'Toole	D Smith
T Burns	M Green	M Otter	D Stansfield
J Sumner	V Taylor	D Whipp	G Wilkins

Abstentions (0)

The Amendment was therefore CARRIED and became the Substantive Motion.

On being put to the vote the motion was CARRIED and it was:

Resolved: That,

Council notes that CC Fillis did not accept the recommendation of the Working Group to introduce a subsidised bus service through Sabden.

Council therefore resolves to instruct the Officers to negotiate with local Bus Companies and that the decision as to whether to subsidise a bus service to serve Sabden should be reconsidered in six month's time.

4. It was moved by County Councillor Dowding and seconded by County Councillor Driver that:

Guild Wheel

Lancashire County Council is committed to creating, wherever possible, safe, scenic, accessible cycle and foot -paths and is proud of the two leading popular and award-winning examples in the County: the 21 mile Guild Wheel around the Preston, and the Millennium Cycle Way through Lancaster.

These accessible quality cycle ways contribute to safety, health improvement, and safe exercise opportunities while reducing pollution and congestion resulting from commuter travel, as well as providing an attractive space in our cities.

This council notes:

- the widespread concerns expressed by local residents from across the County in the Save Our Guild Wheel Petition and in the many letters from organisations, local community groups and many individuals sent to councillors and the local media in relation to the large number of current and planned new junctions and the associated dangers to the favourable character of the Guild Wheel.

- the current City Deal and other infrastructure plans accord huge amounts of public money to a large number of highway developments; but also proposes a number of important cycle and pedestrian developments. Gains from the City Deal programme should benefit all users of the highway and cycleway network.

Council agrees to instruct officers:

- to ensure that cycling provision and new highway crossings and junctions are in line with best practice for cyclists and pedestrians, especially along the 21 mile route of the Guild Wheel.

- to undertake a consultation process with established cycling groups on design input into the significant number of new highway schemes being proposed, especially those on the Guild Wheel, including the Preston Cycle Liaison Group in a timely manner.

- as the lead highway and planning authority, to endeavour to positively respond to the plans of the Preston Cycle Liaison Group which follow from discussions with officers of this council and Preston City Council to create cost effective plans for the benefit of all road users in the current and planned junctions which propose to introduce motor vehicles onto, or across, the Guild Wheel.

- to organise a meeting of all three major Guild Wheel organisations (Lancashire County Council, Preston City Council and Preston Cycle Liaison Group Users Group) to consider options for costings and related benefits.

- to keep all parties informed of progress and the outcomes.

On being put to the vote the motion was CARRIED and it was:

Resolved: That,

Lancashire County Council is committed to creating, wherever possible, safe, scenic, accessible cycle and foot -paths and is proud of the two leading popular and award-winning examples in the County: the 21 mile Guild Wheel around the Preston, and the Millennium Cycle Way through Lancaster.

These accessible quality cycle ways contribute to safety, health improvement, and safe exercise opportunities while reducing pollution and congestion resulting from commuter travel, as well as providing an attractive space in our cities.

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- the current City Deal and other infrastructure plans accord huge amounts of public money to a large number of highway developments; but also proposes a number of important cycle and pedestrian developments. Gains from the City Deal programme should benefit all users of the highway and cycleway network.

Council agrees to instruct officers:

- to ensure that cycling provision and new highway crossings and junctions are in line with best practice for cyclists and pedestrians, especially along the 21 mile route of the Guild Wheel.

- to undertake a consultation process with established cycling groups on design input into the significant number of new highway schemes being proposed, especially those on the Guild Wheel, including the Preston Cycle Liaison Group in a timely manner.

- as the lead highway and planning authority, to endeavour to positively respond to the plans of the Preston Cycle Liaison Group which follow from discussions with officers of this council and Preston City Council to create cost effective plans for the benefit of all road users in the current and planned junctions which propose to introduce motor vehicles onto, or across, the Guild Wheel.

- to organise a meeting of all three major Guild Wheel organisations (Lancashire County Council, Preston City Council and Preston Cycle Liaison Group Users Group) to consider options for costings and related benefits.

- to keep all parties informed of progress and the outcomes.

5. It was moved by County Councillor Ali and seconded by County Councillor Driver that:

Burnley Football Club

Lancashire County Council congratulates Burnley Football Club on another super season culminating in not only winning promotion to the Premier League but winning the title with a record number of points.

This Council ask the Chief Executive to the write to the Board of Burnley FC on behalf of this Council congratulating the Club.

On being put to the vote the motion was CARRIED and it was:

Resolved: That,

Lancashire County Council congratulates Burnley Football Club on another super season culminating in not only winning promotion to the Premier League but winning the title with a record number of points.

This Council ask the Chief Executive to the write to the Board of Burnley FC on behalf of this Council congratulating the Club.

Jo Turton
Chief Executive

County Hall
Preston

Meeting of the Full Council
Meeting to be held on Thursday, 21 July 2016

Report submitted by: Head of Corporate Finance

Part A

Electoral Division affected:
(All Divisions);

Borrowing from the Municipal Bond Agency

Appendix A and B refer

Contact for further information:

Khadija Saeed, Tel: 01772 536195, Head of Corporate Finance,
khadija.saeed@lancashire.gov.uk

Executive Summary

Following changes introduced by the Government in 2010/11 the cost of the Council borrowing money increased. In response, the Council, as part of a Local Government Association initiative has contributed to the setting up of the Municipal Bond Agency, which is intended to reduce costs.

This report makes recommendations to specifically authorise borrowing from the Municipal Bond Agency (MBA). In order to do so, the Council will need to enter into the Agency's Framework Agreement. The Agreement includes an accession document confirming that the council has the necessary approvals to sign the Agreement and a joint and several guarantee to those lending money to the Agency in respect of the borrowing of all other local authorities from the Agency. Entering into the Framework Agreement enables the Council to access funding from the Agency as and when required which will be at a lower rate than PWLB finance.

In particular the report explains the process by which the MBA is expected to raise money and lend to local authorities. The report goes on to explain why it is considered extremely unlikely that the guarantee will be called but in the event it was, explains in general terms what is expected to happen to restore the position. The report explains how this structure is expected to produce cheaper borrowing for local authorities which outweighs the risks associated with the legal arrangements.

Recommendation

The Full Council is recommended to:

1. Note the risks of entry into the Framework Agreement and Guarantee and of undertaking borrowing from the UK Municipal Bonds Agency.

2. Approve entry into the Framework Agreement (a guide to the framework agreement is at Appendix A).
3. Subject to the above, authorise the Cabinet Member with responsibility for finance to approve any specific borrowing to be undertaken.
4. Subject to the above, delegate authority to the Council's Section 151 Officer and Monitoring Officer to execute all the necessary contractual arrangements.
5. Note that these officers will be required to provide the confirmation at Appendix B that the Council's governance has been completed in relation to entering the Framework Agreement.

Background and Advice

The UK Municipal Bonds Agency (MBA) was established by the Local Government Association (LGA) and 56 local authorities, including Lancashire County Council, for the purpose of enabling local authorities to borrow on better rates of interest than would otherwise be available to the local authority and to provide an alternative to the Public Works Loan Board (PWLB).

The Council became a shareholder in the MBA during 2014-15, following approval at Cabinet on 15 July 2014 to invest £250k equity.

Given the Council's significant borrowing requirement to finance the capital programme over the medium term, it was considered in the Council's interest that the MBA was established so as to reduce financing costs in the years ahead.

In order to be able to borrow from the MBA a local authority must accept the terms of the Framework Agreement and grant joint and several guarantee. This means that a local authority will be guaranteeing all the existing finance obligations of the MBA and any future obligations which are entered into.

This report describes the risks of entering into the Framework Agreement and providing the Guarantee, and the safeguards and protections that are in place to mitigate the Guarantee from being exercised. It also sets out the legal powers relied upon to enter into these contracts.

UK MUNICIPAL BONDS AGENCY – OVERVIEW OF THE MBA

Background to MBA

The Local Government Association (LGA) established the UK MBA in June 2014 with the primary objective of reducing UK local authority financing costs, through becoming the most efficient and cost effective provider of finance.

The MBA will borrow money from a variety of third parties, including local authorities, and on-lend, on a matched funding basis to UK local authorities.

In March 2014 a revised Business Case was published by the LGA containing details as to how a municipal bonds agency would expect to issue bonds on behalf of local authorities in an efficient and cost effective manner and at lower rates than from existing facilities such as the Public Works Loan Board (PWLB).

In order to achieve the most competitive pricing and beat PWLB rates, the MBA will have to be viewed as a strong counterparty and have a strong credit rating, achieved through (amongst others), the following mechanisms:

- A joint and several guarantee granted by each of the borrowing local authorities covering the full amounts owed by the MBA under any financing document which is covered by the guarantee;
- Contribution arrangements, whereby if a local authority defaults on one of its payments to the MBA, the MBA shall require each other local authority that is party to the Framework Agreement to put in funds to cover the shortfall; and
- A very conservative risk profile.

In giving the joint and several guarantees, local authorities will be relying on the MBA to ensure appropriate standards of credit worthiness in relation to each of the local authorities and liquidity management.

MBA's Client Base

The MBA will only lend to UK local authorities who can give a joint and several guarantee. This client base is currently limited to 353 principal English local authorities, which have the general power of competence pursuant to section 1(1) of the Localism Act 2011 (the "General Power of Competence") including the power to give a joint and several guarantee, and which satisfy the terms of the Framework Agreement in relation to accession of local authorities.

The ability to give joint and several guarantees may in due course be extended to other local authorities, e.g. combined authorities or Scottish or Welsh authorities. In the event that this occurs, they will be eligible to borrow from the MBA, subject to appropriate credit checks.

The MBA would, in due course, like all local authority borrowers to become shareholders in the MBA. This ensures a stronger alignment of interest between local authority borrowers and shareholders and is viewed positively by ratings agencies and the markets. Accordingly, the MBA will charge a higher interest rate to local authority borrowers who are not shareholders, albeit one which remains competitive.

Borrowing from the MBA

In order to borrow from the MBA, a local authority will need to enter in to the Framework Agreement with the MBA.

The Framework Agreement detail how the MBA expects to interact with local authority borrowers, including detailing how the joint and several guarantee and contribution arrangements will work and documenting the loan standard terms and condition.

Expected MBA Lending Timeline

The lead up to the initial bond issue will require a degree of coordination as local authorities who wish to borrow from the MBA go through these approval processes and the volume of demand for financing builds.

Once a local authority has signed the required documentation, the MBA will carry out its credit assessments prior to entering into any loan with a local authority. Once the MBA has sufficient borrowing demand built up the process of issuing a bond will commence.

The MBA has completed all the necessary internal steps to be able to issue a bond fund borrowing requirements at short notice. Nevertheless, the MBA will only issue a bond when market conditions are appropriate, and accordingly will look for flexibility within a 2 to 4 week window, once local authorities have committed to borrow.

Pricing of the MBA's loans

The MBA operates a transparent pricing structure. The MBA will charge a margin over its underlying borrowing costs to borrowing local authorities. This margin is currently set at:

- 10 basis points (0.10%) for shareholders; and
- 15 basis point (0.15%) for non-shareholders.

The MBA may adjust these margins for new borrowing transactions at its discretion, but will not increase them. It is expected that over time these margins will reduce.

In addition the MBA will pass on any transaction costs to local authority borrowers. These costs will include: rating agency fees, bank syndicate fees and legal costs. These will not exceed 50 basis points (0.50%) on the total amount borrowed.

Prepayment

Any loans from the MBA will be funded by money borrowed by the MBA from the markets, institutions or local authorities. Prepayment rights will track through between the local authority loans and the MBA financing arrangements. For bond issues, voluntary prepayment is calculated in a similar way as PWLB premature repayment.

Approach to credit assessment of local authorities

Prior to approving any loans, the MBA will carry out a credit review on the local authority.

The MBA has developed proprietary credit scoring models based on similar methodologies to the main ratings agencies. In order to access funding from the MBA,

a local authority would need to be able to achieve a single A credit rating on a stand alone basis (rating agencies would typically “notch up” a local authority to account for implied Government support”).

In addition to credit scoring, the MBA will ensure appropriate diversification of its lending portfolio, through the contractual concentration limits agreed in the Framework Agreement.

Key elements of the Framework Agreement

A guide to the framework agreement is at Appendix A. The Framework Agreement is primarily designed to mitigate the risk of a call on the joint and several guarantee, and lays out contractually how the MBA will interact with local authorities.

The joint and several guarantee will be provided by local authority borrowers, in favour of the underlying providers of finance. The guarantee is required to be unconditional and irrevocable. Accordingly, from the point in time at which the guarantee is executed, a local authority is guaranteeing all the financing obligations of the MBA. Should a local authority give notice to withdraw from the guarantee, including repaying all outstanding borrowings, it will continue to guarantee the borrowing of the MBA which are outstanding at that point in time.

The Framework Agreement mitigates the risk of a call on the joint and several guarantee. It does this in a number of ways:

- It required the MBA to carry out certain processes, e.g. credit check, and not to lend money to local authorities which it believes do not pass the credit assessment;
- It required a level of diversification, which ensures that the MBA does not become overly concentrated in lending to a particular authority;
- It sets out the timelines for payment to ensure that the MBA has funds in place on a timely basis for payments of interest and principal;
- It includes requirement for notification in the event that an authority will have difficulty in meeting its payment obligations.

In addition the MBA will maintain standby liquidity facilities, which are intended to be sized at an amount sufficient to avoid default on an interest payment.

In the event that an authority does not meet its obligation to the MBA on a timely basis, the MBA is required to ask authorities to make contribution (contribution arrangements) to meet the shortfall in proportion to their borrowings, in the form of a contribution loan, to avoid the guarantee being called in.

In the event that a contribution is made, the MBA is required to pursue recovery of the debt, from the defaulting authority, on a timely basis.

Default by a local authority

No principal local authority has default on any loan (from the PWLB, a bank or any other lending institution).

The statutory and prudential framework under which local authorities operate is amongst the strongest in the world.

Any lender to a local authority has protection, under statute, by way of a first charge on the revenue of that authority.

In addition, the reputational damage which would be suffered by a defaulting local authority would be significant.

MBA Credit Rating

The MBA has a private credit rating, which it will make public at the appropriate time. The range of local authority borrowers/guarantors may impact the credit rating.

Governance of the MBA

The MBA is a public limited company and as such is directed by its Board. In due course, it is expected that the Board will include 7 non-executive and 3 executives.

In addition, the Board will have the following 2 sub-committees, chaired by independent non-executives:

- Risk, Compliance and Audit Committee; and
- Nomination and Remuneration Committee.

RISKS AND SAFEGUARDS OF ENTRY INTO FRAMEWORK AGREEMENT

Given the participating local authority's exposure to the contribution arrangements and/or the Guarantee when borrowing from the MBA, it is important to understand that entry in to the Framework Agreement and borrowing from the MBA is therefore very different in nature to borrowing from the Public Works Loan Board, under a bilateral loan facility or through a bond issue in the capital markets.

There are inherent risks associated with the proposed structure for any local authority entering into the Framework Agreement, not least the joint and several nature of the Guarantees that participating local authorities are required to provide before borrowing from the MBA. These are:

- The risk to a participating local authority is that its Guarantee may be called independently of any other Guarantee and for the full amount owing by the MBA under the financing document which is covered by such Guarantee (and, therefore, such participating local authority is potentially liable to pay out amounts to the MBA that vastly exceed the amounts borrowed).

- Participating local authorities should also note that, even after a participating local authority has terminated its Guarantee, it will continue to guarantee the “Guaranteed Liabilities” entered into by the MBA before the date of termination of the Guarantee. The effect of this is that a participating local authority’s liability under its Guarantee may potentially continue in existence for many years after termination.

However, the risks associated with the Guarantees are mitigated by the contribution arrangements mechanism. The Framework Agreement is therefore designed such that the real exposure for participating local authorities, from a practical perspective, should be under the contribution arrangements rather than the Guarantees, and the exposure of each participating local authority would be calculated by reference to the amount borrowed by it as a proportion of all non defaulting participating local authorities borrowing under the structure.

Even though the participating local authorities are entitled to expect that the MBA will operate in accordance with its obligations under the Framework Agreement, participating local authorities are nevertheless inevitably exposed to the risk that the MBA fails to observe its obligation under the Framework Agreement. This may include failure to sustain and police robust due diligence and credit assessments on acceding local authorities (therefore making it more likely that the participating local authority will need to contribute over and above their borrowings whether through the contribution arrangement or the Guarantee). It is also possible that the MBA itself may default on its underlying bilateral borrowing from counterparties or under bond issues by not managing its cash flows in a prudent manner or that the MBA may fail to operate the contribution arrangements in a manner as envisaged in the Framework Agreement, in which case, each participating local authority is exposed to a call on its guarantee without the protection that the contribution arrangements provide.

However, the Framework Agreement does contain provision to mitigate the risks identified above, in summary by:

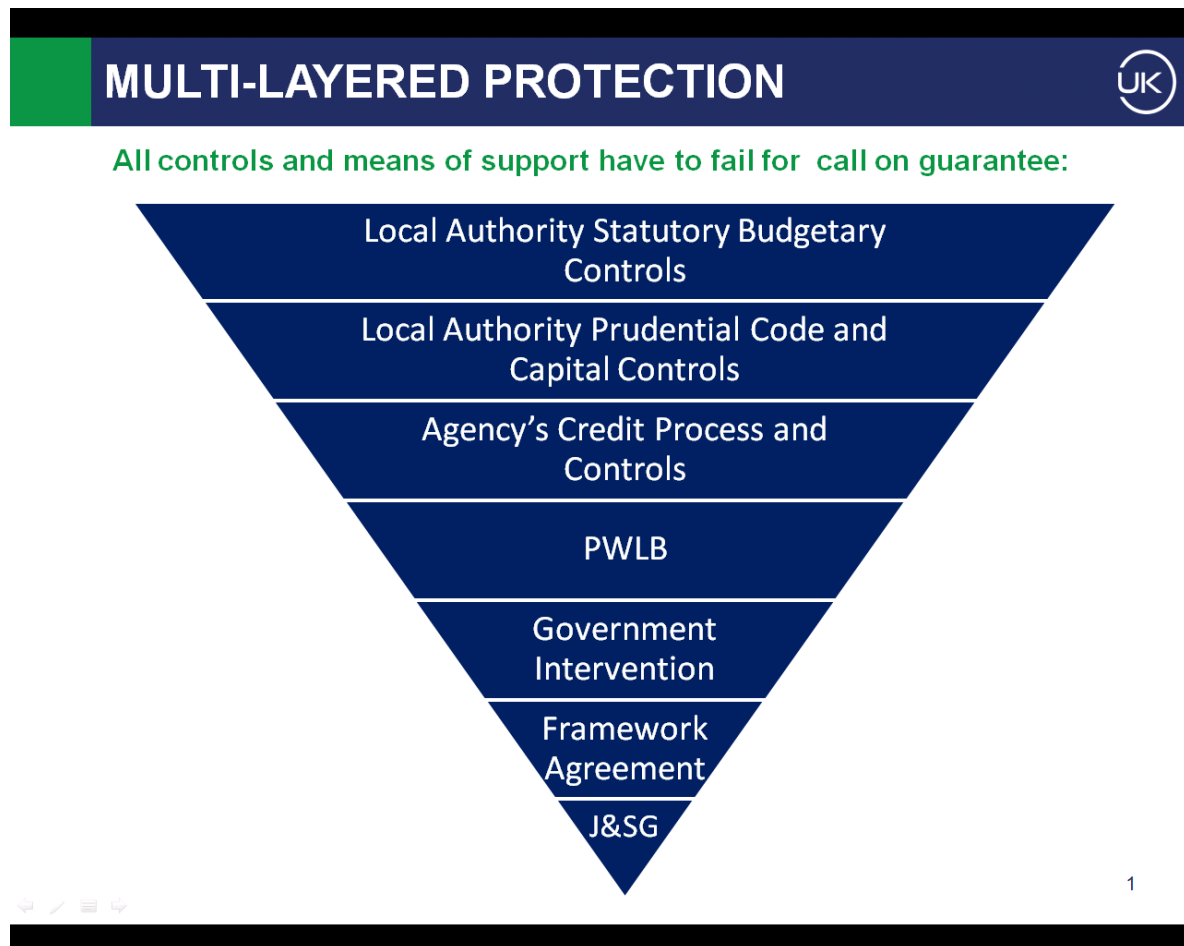
- The contractual obligations upon the MBA to undertake credit assessments of each LA;
- The limit on the amount each participating local authority may borrow from time to time
- The matched transactions basis on which the MBA itself will borrow money
- The power for participating local authorities to collectively instruct MBA not to undertake further borrowing.

In addition to the above, the statutory and prudential framework under which local authorities operate (set out in summary below), should provide some reassurance to the financial standing of the local government sector:

- Compliance with the prudential framework established by Part 1 of the Local Government Act 2003 and related regulations, including the Prudential Code for Capital Finance in Local Authorities published by CIPFA
- Requirement to set a balanced budget in accordance with Section 31A and Section 42A of the Local Government Finance Act 1992

- The Chief Finance Officer’s report on robustness of budget estimates and adequacy of reserves under section 25 of the Local Government Act 2003.
- Requirement to publish audited accounts by a statutory deadline
- External audit opinion in respect of a local authority’s accounts.

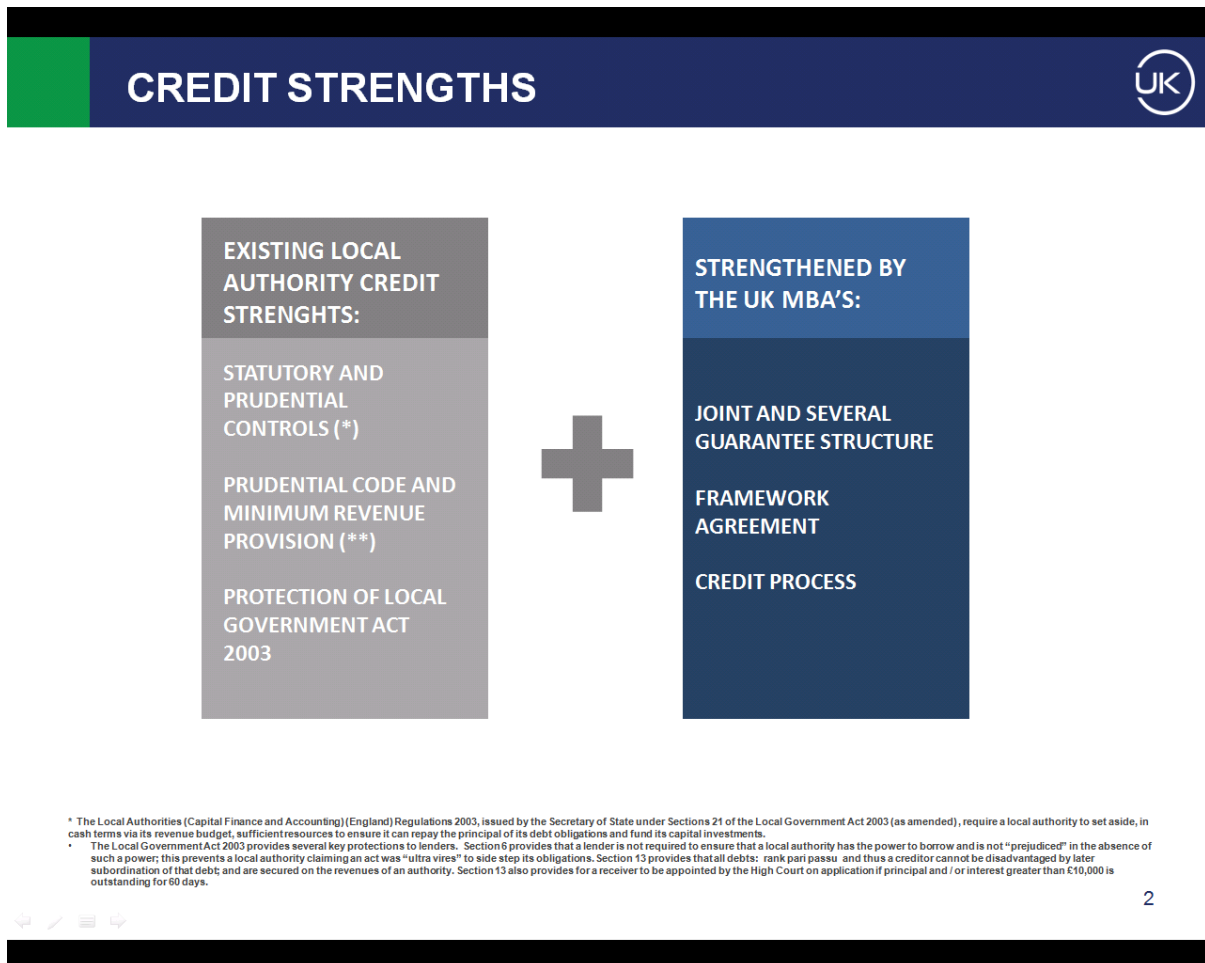
The slides and diagrams below (provided by the MBA) describe the layers of controls and safeguards in place that have to fail before the call on the guarantee is exercised.



The local authorities (Capital Finance and Accounting) (England) Regulations 2003, issued by the Secretary of State under Sections 21 of the Local Government Act 2003 (as amended), require a local authority to set aside, in cash terms via its revenue budget, sufficient resources to ensure it can repay the principal of its debt obligations and fund its capital investments.

The Local Government Act 2003 provides several key protections to lenders. Section 6 provides that a lender is not required to ensure that a local authority has the power to borrow and is not “prejudiced” in the absence of such a power; this prevents a local authority claiming an act was “ultra vires” to side step its obligations. Section 13 provides that all debts: rank pari passu and thus a creditor cannot be disadvantaged by later subordination of that debt; and are secured on the revenues of an authority. Section 13 also provides for a receiver to be appointed by the High Court on application if principal and / or interest greater than £10,000 is outstanding for 60 days.

The slide below describes that the existing local authority credit strengths are strengthened by the MBA's Framework Agreement, Guarantee and Credit Process.



This slide describes the strong legislative framework that local authorities operate within which should provide some reassurances to institutions providing loans to local authorities, through the MBA, as well as local authorities signing providing guarantee.

LOCAL AUTHORITIES ARE HEAVILY SUPERVISED



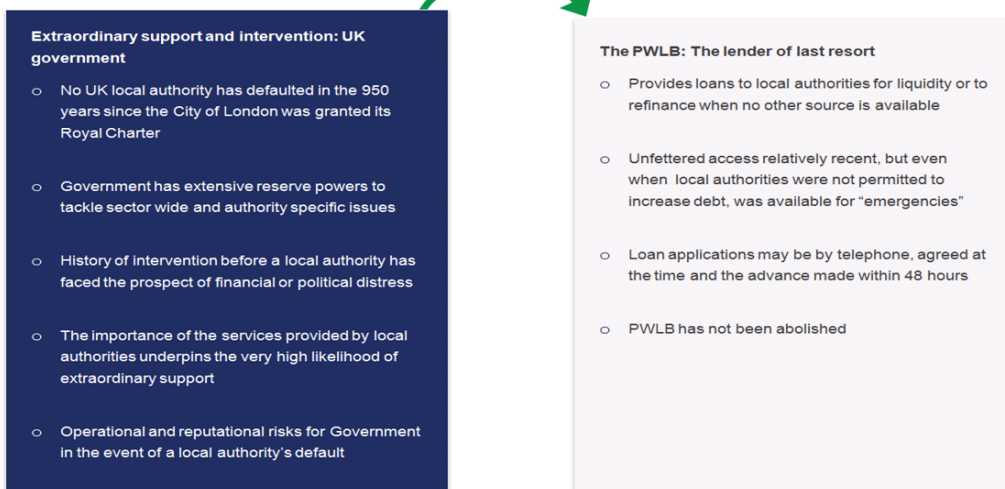
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The PWLB remains the lender of last resort and may be used by local authorities for liquidity purposes or to refinance loans at short notice.

UK GOVERNMENT INTERVENTION



& THE ROLE OF THE PWLB AS LENDER OF LAST RESORT



4

Conclusion

In providing a guarantee in order to be able to borrow via the MBA, the risks that arise must be considered. Exposure to the contribution arrangements and the joint and several guarantee means that entering into the Framework Agreement and borrowing via the Agency is different in nature to borrowing from the Public Works Loan Board, under a bilateral loan facility or through a bond issue in the capital markets.

There are inherent risks associated with the proposed structure, not least the joint and several nature of the guarantee. These are:

- The risk that the Council's guarantee may be called independently of any other Guarantee and for the full amount owing by the Agency under the financing document that is covered by the guarantee (and, therefore, the Council would be potentially liable to pay out amounts to the MBA that exceed the amounts borrowed).
- Even if the Council has terminated its Guarantee, it will continue to guarantee the "Guaranteed Liabilities" entered into by the Agency before the termination date (until such time as those liabilities have expired, as the underlying loan has been repaid). The effect of this is that the Council's liability under its Guarantee may potentially continue in existence for many years (several decades) after termination.

However, the risks associated with the joint and several guarantee are mitigated by the contribution arrangements. The Framework Agreement is such that the Council's exposure, from a practical perspective, is the requirement to make contributions in the event of a default by another borrower and this exposure is proportional because it is calculated by reference to the amount borrowed by the Council as a proportion of all non-defaulting loans made by the Agency.

The risk of a default by a local authority is considered to be low with the ability of the Agency to recover sums owed to it in the event of a default set out in this report.

There is a risk that the Agency does not observe its obligations under the Framework Agreement, but the Council is entitled to expect that the Agency will operate in accordance with its obligations under the Framework Agreement when considering whether or not to enter into the Framework Agreement. The LGA and local authorities control the Agency via their shareholdings so could intervene if the Agency did not abide by the Framework Agreement.

Benefits

The prime advantage to the Council is the prospect of lower borrowing costs and the possibility to obtain types of loans that are not available from the PWLB. Cheaper capital finance will reduce pressure on the Council's finances. This advantage offsets the low risk that a local authority defaults and the Agency is unable to recover the debts owed to it in order to repay the Council any contributions it is required to make.

When the Agreement comes into effect

The Framework Agreement only comes into effect if the Council does borrow from the Agency. If the Council does not borrow, there is no risk to the Council arising from the contribution arrangements or joint and several guarantee. The Council is not obligated to borrow via the Agency and even if it chooses to legally commit to borrowing via a bond issue, it will not be required to take a loan that is not cheaper than the PWLB, so the bond will not be issued. Therefore, the financial risk to the Council of the Agency either failing to deliver a saving or the Council not borrowing having signed the Framework Agreement is effectively eliminated.

Wider Observations about LA Borrowing Risk

All borrowing of the MBA will be done for and on behalf of local authorities. The major credit reference agencies have considered local authorities as a sector.

Moody's has observed:

LAs are highly regulated by the Department of Communities and Local Government, and ultimately the national government. A number of measures are in place to ensure LAs deliver fiscal discipline, including the requirement to put forward balanced budgets, have council tax rates approved annually, and to implement the Prudential Code for Capital Finance in Local Authorities, which limits the levels of borrowing. There are currently no signs of this regulatory framework or the associated oversight weakening. In addition, the Secretary of State has additional powers of intervention if a council is on the verge of financial distress, if needed.

And Standard & Poors have observed:

"If a council were to default we consider the legislation to be favorable to creditors, and we would expect high recovery rates. The Local Government Act 2003, for example, mandates that all money borrowed by a local authority, together with any interest on the money borrowed, "shall be charged indifferently on all the revenues of the authority." In the event of a default, the High Court may confer on a receiver any powers which the local authority has in relation to collecting, receiving, or recovering the revenues of the local authority. Given the potential implications of a default, particularly in terms of loss of control over revenue and therefore service delivery, councillors and their officers have a strong disincentive against willingly defaulting on their financial obligations.

...Broadly speaking, we consider that the sector has a strong technical capacity to deliver spending reductions.

... the sector has shown a strong track record of monitoring and controlling expenditure. Council officers typically provide monthly financial reports to their councillors, and the U.K. Department for Communities and Local Government (DCLG) monitors quarterly financial returns. We understand that DCLG continues to play an active role in responding to councils that are under financial stress. Although the decision to close the Audit Commission has reduced the extent of local authority reporting, we still consider that, from a credit perspective, the U.K. local authority

sector benefits from a high degree of transparency and effective monitoring and financial controls.”

In essence both agencies are saying that lenders to the local government sector should have a high level of confidence in getting debt repaid and interest payments in line with expectations. Effectively the guarantee provides additional assurance and in the event that contributions were required the MBA would be in a position to recover them through the High Court, relying on the charge borrowings place on revenues.

The risk associated with the guarantee is therefore considered low, and the risk associated with any loan does not really depend upon the lender; it is a market risk which we already have, though as indicated above the MBA is expected to be able to lend more cheaply than the PWLB.

However, given the specific risks and guarantees around this borrowing it is concluded that subject to the Council's approval to enter into the Framework Agreement, borrowing from the MBA is not undertaken without the express approval of the Council's Cabinet Member with responsibility for finance in relation to each loan undertaken.

Additionally, in order to access borrowing from the UK MBA, local authorities will need to be able to demonstrate that those signing the guarantee and related documents have the appropriate authorisation. This protects both the UK MBA and other participating local authorities. To facilitate this, the UK MBA requires a certificate of approval (Appendix B) to be signed by both the S151 officer and the monitoring officer, which identifies the chain of authority from the local authority to the relevant signatories and demonstrates that the local authority has appropriate approval to enter into the Framework Agreement and the relevant guarantee.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Financial

Due to the changing environment within financial markets following the EU referendum outcome, any decision to borrow from the MBA will need to consider the market conditions at the time of any bond issue.

Legal

Legal advice as to the powers required by participating local authorities was sought from external lawyers who were satisfied that there were no vires issues.

Risk management

As set out in this report

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Tel
Financing the County Council's Borrowing Requirement	15 July 2014	Mike Jensen, (01772) 538724

Reason for inclusion in Part II, if appropriate

N/A

Guide to the Framework Agreement

This Appendix A (*Guide to the Framework Agreement*) is intended to be a summary only, providing ease of accessibility to, and not a substitute for, the detail of the Framework Agreement. This summary is entirely subject to the terms of the Framework Agreement, which should be read in full and shall at all times take precedence (including in the event of a dispute).

Joint and several guarantee

The joint and several guarantee ("the guarantee") is irrevocable and unconditional.

The guarantee will become effective when it is executed (which the UK MBA envisages will be at the point in time at which the UK MBA first provides financing to the respective local authority). At that point in time, the local authority will be guaranteeing all existing finance obligations of the UK MBA and any future finance obligations which are entered into prior to the local authority giving notice to terminate the guarantee.

A local authority can only give notice to terminate the guarantee when it has no outstanding loans from the UK MBA. The irrevocable nature of the guarantee means that, at that point in time, it will continue to guarantee the finance obligations which are in place when notice to withdraw is given. However, it will not be guaranteeing any future financing obligations of the UK MBA.

Contribution arrangements and mechanism

In order to mitigate the risk of a call on the guarantee, contribution arrangement mechanics have been built into the Framework Agreement.

Contribution arrangements enable the UK MBA, in the event of a failure by a local authority to meet a payment obligation within the time frames set out under the Framework Agreement, to call proportional contributions from other borrowing authorities. These timeframes, which are specified in section 3.3 of the Framework Agreement, can be summarised as follows:

1. Payment of interest must be made to the UK MBA by 11am on the fifth business day preceding the due date of such amount under the loan made by the UK MBA to the relevant local authority. For payments of principal and unless otherwise agreed between the UK MBA and the relevant local authority, it is the tenth business day.
2. If any of these payments have not been made and the UK MBA is unable to obtain sufficient funds by other means by 11am the following day in the case of interest or 2 days after the required date of payment (unless otherwise agreed between the UK MBA and the relevant local authority) in the case of principal, bearing in mind that the UK MBA is obliged to send follow up demands, the UK MBA shall (by 5pm on such day) issue a contribution notice to each non-defaulting local authority (a "**Contribution Notice**").
3. Each Contribution Notice will request each non-defaulting local authority to provide contributions calculated by reference to the proportion of the shortfall equal to its borrowings as a proportion of the borrowings of all non-defaulting local authorities from the UK MBA. Some non-defaulting local authorities'

contributions will therefore be zero (where such non-defaulting local authority has no outstanding borrowings from the UK MBA).

4. Contributions must be made by 11am on the date specified in the relevant Contribution Notice which shall be at least 2 business days after the date of the Contribution Notice in the case of interest or 4 business days after the date of the Contribution Notice (unless otherwise agreed between the UK MBA and the relevant local authority) in the case of principal.
5. Should any local authority fail to pay any contribution due under a Contribution Notice, the UK MBA shall issue notices to the other non-defaulting local authorities (a "**Further Contribution Notice**"), requiring a further contribution by 11 am the following business day in the case of interest or 2 business days after the date of such Further Contribution Notice in the case of principal. The UK MBA may, however, elect not to carry out this process if it has obtained the required funds by other means.

The UK MBA may also by agreement with any non-defaulting local authorities issue notices to such local authorities requiring them to pay in aggregate an amount equal to the shortfall less the contributions that have been made (an "**Individual Authority Contribution Notice**"). As indicated at 3 above, contributions by a non-defaulting local authority are calculated by reference to the proportion of the shortfall equal to that local authority's borrowings as a proportion of the borrowings of all non-defaulting local authorities from the UK MBA. For example, if the UK MBA had £110million outstanding loans equally to 11 authorities and one defaulted on a £10million repayment, then each of the remaining 10 would be asked to make a £1million contribution.

Any contributions are in the form of loans to the UK MBA, upon which interest would be payable. The UK MBA is obliged, under the Framework Agreement, to pursue any defaulting authority on a timely basis for full repayment of any outstanding defaulted amounts, and shall use recoveries to repay local authorities which have made any payments under the guarantees or made contribution loans.

Further details of the timelines for payment of interest and principal and related timings for Contribution Notices are contained in the Framework Agreement. The UK MBA may use other liquidity facilities to cover a default, but, if it is unable to do so, Contribution Notices will be sent.

For worked examples of the contribution arrangements, see page [11] of this Appendix A.

Prepayment

Prepayment of a loan from the UK MBA to a local authority (the "**Loan**") may occur under the following circumstances:

Illegality Prepayment

If, in any applicable jurisdiction, it becomes unlawful for the UK MBA to perform any of its obligations as contemplated by the loan agreement or to fund or maintain the Loan:

1. the UK MBA shall promptly notify the relevant local authority upon becoming aware of that event whereupon the facility will be immediately cancelled; and
2. the relevant local authority shall repay the Loan on the interest payment date (as specified in the relevant loan confirmation) immediately following the date

on which the UK MBA has notified such local authority, or if earlier, the date specified by the UK MBA in the notice delivered to such local authority, together with interest accrued (if any).

Mandatory prepayment of funding arrangements

If the UK MBA is required to prepay any funding which the UK MBA entered into in order to fund the making of the Loan, the UK MBA shall promptly notify the relevant local authority of such requirement and such local authority shall repay the Loan on the interest payment date (as specified in the relevant loan confirmation) immediately following the date on which the UK MBA has notified such local authority, or if earlier, the date specified by the UK MBA in the notice delivered to such local authority, together with interest accrued (if any).

Voluntary Prepayment for Tax

If a local authority is required to pay any additional amounts pursuant to clause 9 (Tax Gross Up) of the loan standard terms, the local authority may elect to prepay the Loan in whole on any interest payment date (as specified in the relevant loan confirmation) at the prepayment amount specified in the loan confirmation on such local authority giving not less than 60 days' notice to the UK MBA (which notice shall be irrevocable and shall oblige such local authority to prepay the Loan in whole plus accrued interest (if any) to such date).

Change of Status

If at any time a local authority ceases to be treated as a "local authority" within the meaning of the Local Government Act 2003 and the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 or equivalent legislation due to legislative amendment (a "**Change of Status**"), the UK MBA may by notice to the local authority require it to prepay the Loan on the interest payment date (as specified in the relevant loan confirmation) immediately following the date of such notice, together with interest accrued (if any).

Voluntary Prepayment

Unless otherwise specified in the relevant loan confirmation, the Loan may be prepaid at the option of the relevant local authority in whole or in part on any voluntary prepayment date at the prepayment amount (both as specified in the relevant loan confirmation) on such local authority giving not less than 60 days' notice to the UK MBA, or such other period(s) as may be specified in the relevant loan confirmation (which notice shall be irrevocable and shall oblige such local authority to prepay the Loan in whole or, as the case may be, in part, as specified in such notice on the relevant voluntary prepayment date at the prepayment amount plus accrued interest (if any) to such date), provided that the Loan may not be voluntarily prepaid prior to the date falling 12 months after the utilisation date or following the date falling 12 months prior to the final repayment date (both as specified in the relevant loan confirmation).

No other prepayment

No local authority shall, without the prior written consent of the UK MBA, be entitled to prepay the Loan otherwise than as provided in clauses 6.1 to 6.5 of the loan standard terms.

Default by a local authority

Default by a local authority is likely to result in material reputational damage to that authority. The UK MBA is required to notify participating local authorities of the relevant default.

In addition, the Framework Agreement requires the UK MBA to promptly take action to recover any defaulted amounts, which may involve an application to the High Court.

Any costs related to pursuit of a default, including administration costs and interest on contributions, would be a cost to the defaulting local authority, which the UK MBA would pursue. The UK MBA has no authorisation, from participating authorities or shareholders, to negotiate forgiveness of either the outstanding debts or costs.

An event of default is primarily a failure by that local authority to meet a payment, when due, but will also include (amongst other things):

- the appointment of a receiver by the High Court under Section 13(5) of the Local Government Act 2013 in respect of that local authority; and
- the dissolution of that local authority, other than in the creation of a statutory successor.

In order to access borrowing from the UK MBA, local authorities will need to be able to demonstrate that those signing the guarantee and related documents have the appropriate authorisation. This protects both the UK MBA and other participating local authorities. To facilitate this, the UK MBA requires a certificate of approval to be signed by both the S151 officer and the monitoring officer, which identifies the chain of authority from the local authority to the relevant signatories and demonstrates that the local authority has appropriate approval to enter into the Framework Agreement and the relevant guarantee.

Concentration limits

Concentration limits restrict the UK MBA's ability to become over-exposed to a single local authority, thus ensuring that, in the event of a default, contributions to that default will be spread amongst a wide group of local authorities. These concentration limits are detailed in section 5.2 of the Framework Agreement. It should be noted that concentration limits are tested at the point in time that a local authority borrows, i.e. if local authorities merge to become combined authorities, those limits may be breached. However, as per section 5.2 of the Framework Agreement, in the event of any reorganisation of local authorities, the UK MBA may propose amendments to the concentration limits for approval by 85% of participating authorities.

Matched Financing Arrangements

The UK MBA shall only borrow funds (i) intended to be on-lent to the local authorities (and in any event amounts borrowed by the UK MBA shall at no time be more than 105% of the total outstanding loans it has made to local authorities), where the interest rates on the on-loans will be at least equal to the rate paid by the UK MBA, or (ii) to meet payment obligations in the event of a default by any local authority.

Power of LAs to restrict UK MBA borrowing

Participating local authorities may instruct the UK MBA not to enter into any further borrowing commitments, either under any finance documents or through the issuance of bonds, provided that the number of such local authorities is more than 50% of the number of all participating local authorities and the outstanding loans of such local

authorities amount to more than 50% by value of the total outstanding loans. This shall not restrict the ability of the UK MBA to borrow further amounts under any finance document (including under any liquidity facility) or contribution loan to meet a payment obligation under a finance document.

This may occur, for example, if local authorities become concerned about the credit standards of the UK MBA or there is a fundamental change in the statutory or prudential framework.

Loan standard terms

Loan standard terms protect both the UK MBA and the local authorities borrowing from the UK MBA. Any amendments to the standard terms must be agreed between both the UK MBA and the relevant borrowing local authority. Each loan agreement with a local authority will consist of the standard terms as supplemented by a loan confirmation specifying specific details for that particular loan.

Increased Costs

Where the UK MBA has made a Loan to a local authority, the relevant local authority shall, within three business days of a demand by the UK MBA, pay for the account of the UK MBA the amount of any Increased Costs (as described below) incurred by the UK MBA as a result of:

- the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation after the date of the loan agreement; or
- compliance with any law or regulation made after the date of the loan agreement.

Increased Costs include: (i) a reduction in the rate of return from the Loan or on the UK MBA's overall capital, (ii) an additional or increased cost, or (iii) a reduction of any amount due and payable under the loan agreement, in each case which is incurred or suffered by the UK MBA to the extent that it is attributable to the UK MBA having entered into a commitment or funding or performing its obligations under the loan agreement.

The obligation on the relevant local authority to pay any Increased Costs does not apply to the extent that such Increased Cost is:

- attributable to a deduction or withholding for or on account of UK taxes required by law to be made by the relevant local authority; or
- attributable to the wilful breach by the UK MBA of any law or regulation.

Confidential information

Much of the information which the UK MBA uses is available from public sources. Nevertheless on occasions, as part of the UK MBA's credit assessments, the UK MBA may receive information which is not available publicly.

The UK MBA shall assume that any information that it has received which is not in the public domain is the confidential information of the provider. This does not include information which is required to be disclosed to the UK MBA under section 6.2 of the Framework Agreement (see "*Information Requirements*" below, where the UK MBA may disclose the information to legitimately interested parties, at its discretion).

Similarly, the UK MBA will be providing local authorities with confidential information. For example, the UK MBA views its credit assessments, along with the underlying models, as being confidential. Any confidential information provided to an authority by the UK MBA will be identified as such.

The UK MBA needs to comply with the Market Abuse Directive in relation to the treatment of material price sensitive information. For such information, the UK MBA needs to ensure it is held confidential until it is appropriately communicated to the market. In addition to the credit assessments, such information may include details of authorities granting, or terminating, their guarantee.

Information Requirements

A local authority is required to notify the UK MBA, in writing, where there are indications that such local authority's financial or operational performance may give rise to concerns over its ability to meet its obligations under any lending arrangements. In particular, the local authority shall notify the UK MBA:

- if it is unable to pay its debts as they fall due;
- of any report issued in respect of it under Section 114 of the Local Government Finance Act 1988 (or any replacement or equivalent provision);
- of any failure to comply with the prudential framework established by Part 1 of the Local Government Act 2003 and related regulations, including the Prudential Code for Capital Finance in Local Authorities published by CIPFA, as amended or reissued from time to time;
- of any failure to set a balanced budget in accordance with Section 31A and Section 42A of the Local Government Finance Act 1992;
- if the chief finance officer's report on robustness of budget estimates and adequacy of reserves under section 25 of the Local Government Act 2003 states either that the estimates are not robust and/or the reserves are inadequate, and such local authority passes that budget without action to remedy those deficiencies;
- if external auditors issue a qualified audit opinion in respect of such local authority's accounts;
- if such local authority is or will be unable to publish audited accounts by the statutory deadline;
- of any Change of Status of such local authority;
- promptly upon becoming aware that any representation or statement made or deemed to be made by it in the Framework Agreement, any loan agreement or any other document delivered by or on behalf of it in relation to such documents was incorrect or misleading when made or deemed to be made;
- promptly upon becoming aware of them, the status and description of any dispute, litigation, arbitration, expert determination or administrative proceedings which are current, threatened or pending against such local authority, which is reasonably likely to be adversely determined, and which, if adversely determined either individually or taken as a whole, are reasonably likely to have a material adverse effect on the status or governance of the local

authority, its assets, its operations, its condition (financial or otherwise), its prospects, or its ability to comply with the finance documents;

- promptly upon becoming aware of them, any event or circumstance which such local authority reasonably believes might have a material adverse effect on the status or governance of the local authority, its assets, its operations, its condition (financial or otherwise), its prospects, or its ability to comply with the finance documents; or
- promptly on request, such additional information as may be reasonably requested by the UK MBA from time to time,

and, in each case, the local authority shall set out in such notice reasonable details associated therewith, the effects of such an event or occurrence and any actions being undertaken to mitigate or remedy such event or occurrence.

Modification

Any modification to the Framework Agreement requires an agreement between the UK MBA and (unless otherwise specifically provided in the Framework Agreement) local authorities being more than 85% of the number of all participating local authorities and where the value of outstanding loans of such local authorities is greater than 85% of the total outstanding loans, provided that no modification to the Framework Agreement which imposes additional obligations on a particular local authority will be made without the consent of that local authority.

Resignation of LAs and termination of guarantees

A local authority may terminate its joint and several guarantee by giving written notice to the UK MBA. In order to terminate the joint and several guarantee, the local authority must have repaid all its outstanding loans from the UK MBA.

If a local authority terminates its joint and several guarantee, it shall no longer be eligible to borrow from the UK MBA, unless it repeats the accession process.

Upon termination, a local authority will continue to guarantee the UK MBA's borrowings which were in place at the time of termination until they are fully repaid.

Enforcement and application of proceeds

The UK MBA is obliged under the Framework Agreement to pursue any defaulting authority for full recovery, using whatever means available.

In particular, the UK MBA may:

- declare such local authority's liabilities to the UK MBA to be immediately due and payable;
- sue for, commence or join any legal or arbitration proceedings against the defaulting local authority;
- exercise any rights of set off; or
- apply to the High Court to have a receiver appointed under Section 13(5) of the Local Government Act 2013.

If the UK MBA does not take steps to recover any defaulted amounts within 90 days of the relevant failure to pay, the UK MBA shall take such action as is reasonably required by the majority of local authorities (where the majority in such case will be met if the number of such local authorities is more than 50% of the number of all

participating local authorities and the value of outstanding loans of such local authorities is greater than 50% of the total outstanding loans).

Any amounts recovered by the UK MBA shall be applied in the following order of priority:

- in discharging any amounts owing to the UK MBA's creditors;
- in payment to the local authorities which have made a payment under their guarantee; and
- in payment to the local authorities which have made a contribution, with prioritisation based on the basis for the contributions, i.e. Individual Authority Contribution Notice, Further Contribution Notice and Contribution Notice.

Any amounts payable to local authorities shall be pro-rata to the total amounts of contributions in the relevant category made by such local authorities.

Worked examples

In the following worked examples assume the following:

- Minimum diversification: The UK MBA's total loan book is split between local authorities in such a manner as will meet its minimum requirements in terms of the total number of authorities and the amounts owing by any individual authority.
- Single name limit: The maximum amount which can be owed by any individual authority within a total loan book banding.

Single bond in issue, £250:

Summary of exposures: 2 authorities owe £37.5 million (Authority A & B), 7 authorities owe £25million.

If authority A fails to pay a principal repayment, the following contributions will be required:

Authority B £6.6 million, remaining authorities £4.4million

Should Authority B fail to pay the contribution, the remaining authorities will be asked to contribute an additional £0.9million, i.e. a total contribution of £5.4 million

Portfolio of loans at £1 Billion

Summary of exposures: 2 authorities owe £125 million (Authority A & B), 7 authorities owe £107million

If authority A fails to pay a principal repayment, the following contributions will be required:

Authority B £17.9 million, remaining authorities £15.3million

Should Authority B fail to pay the contribution, the remaining authorities will be asked to contribute an additional £2.6million, i.e. a total of £17.9 million

Portfolio of loans at £2 Billion

Summary of exposures: 2 authorities owe £250 million (Authority A & B), 7 authorities owe £210million

If authority A fails to pay a principal repayment, the following contributions will be required:

Authority B £36.3million, remaining authorities £30.5million

Should Authority B fail to pay the contribution, the remaining authorities will be asked to contribute an additional £5.2million, i.e. a total of £35.7million

Note: These examples are illustrative. The UK MBA would expect the level of diversification, as the portfolio expands, to increase rather than effectively remain static.

Standard confirmation of LA's authority to borrow from UK MBA and execute a Guarantee

To: UK Municipal Bonds Agency PLC
[Address]

Date: [●]

Dear Sirs,

Certificate of Approval - UK Municipal Bonds Agency PLC (the Company)

With reference to the Framework Agreement [to be entered into / dated [insert date]] between the Company and various UK local authorities and as annexed hereto as Annex 1 (the Framework Agreement) and the form of guarantee attached as Schedule 2 to the Framework Agreement (the Guarantee), we hereby confirm that:

- (i) the Authority has the necessary power to enable it to enter into the Framework Agreement and the Guarantee, and perform its obligations thereunder;
- (ii) the Authority has approved the entering into of the Framework Agreement and the Guarantee; and
- (iii) all necessary authorisations have been obtained, and all appropriate and applicable decision-making procedures have been followed and completed, to enable it to enter into this Agreement and the Guarantee.

[Attached hereto / Available at the weblinks specified below] are copies of documentation required to evidence the chain of authority from the council to the relevant signatories on behalf of such Authority, as follows:

[Annex 2 / [insert weblink]] - *[Set out all delegations of power from constitutional documents to signatory of the documents, referring to specific sections of documents where relevant. Such documents may include standing orders, Annual Treasury Management Strategy, delegations to committees, and should include minutes of meetings specifically approving the Framework Agreement and the Guarantee]*

Signed by: [name]

Chief Finance Officer (appointed pursuant to s151 of the Local Government Act 1972)

.....

Signed by: [name]

Monitoring Officer (appointed pursuant to section 5 of the Local Government and Housing Act 1992, as amended by Schedule 5 paragraph 24 of the Local Government Act 2000)

.....

Meeting of the Full Council
Meeting to be held on Thursday, 21 July 2016

Report submitted by: Director of Community Services

Part A

Electoral Division affected:
(All Divisions);

Transport for the North
(Appendices 'A', 'B' and 'C' refer)

Contact for further information:
Dave Colbert, Specialist Advisor – Transport Planning. 01772 534501
Dave.colbert@lancashire.gov.uk

Executive Summary

Transport for the North (TfN) is an evolving partnership of local transport authorities, combined authorities and Local Enterprise Partnerships across the North of England acting collectively and working with the Government, Highways England, HS2 and Network Rail to develop a Northern Transport Strategy in support of the Government's wider Northern Powerhouse agenda. The County Council has been fully engaged with TfN since July 2015 through its membership of Transport for Lancashire (TfL).

The Government has undertaken to establish Transport for the North on a statutory basis, with powers drawn down from central government to support this role; primary legislation to implement this commitment is set out in the Cities and Local Government Devolution Act 2016. TfN intends to submit a proposal to establish a sub-national transport body for the North to the Government during the summer Parliamentary recess. The Chair of TfN, on behalf of its Partnership Board, has invited each of the 19 local transport authorities within the proposed STB area to consider the draft proposal attached as Appendix 'A' and consent to its submission to the Secretary of State. There will be a further opportunity to consider the final draft regulations to establish Transport for the North as a statutory sub-national transport body in the autumn.

Recommendation

That the Full Council:

1. note the contents of this report;
2. agree 'in principle' support for the draft 'Proposal to Establish a Sub-national Transport Body' as set out in Appendix 'A' and consent to its submission to the Secretary of State;

3. note that this agreement 'in principle' be contingent on TfN drawing down powers from central government and not derogating powers from local transport authority arrangements or securing any reserve powers to determine, manage and/or deliver local transport responsibilities without the full support of the relevant local transport authority;
4. approve the nomination of the Leader of the County Council as Lancashire County Council's representative on Transport for the North and that the Deputy Leader be nominated as a substitute to attend meetings in the absence of the Leader of the Council.

Background and Advice

Transport for the North (TfN) is an evolving partnership of local transport authorities, combined authorities and Local Enterprise Partnerships across the North of England acting collectively and working with the Government, Highways England, HS2 and Network Rail to develop a Northern Transport Strategy in support of the Government's wider Northern Powerhouse agenda. TfN was established in October 2014 to enable the North to speak with one voice on the big decisions necessary to deliver transformational change through improved connectivity, thereby making the North a more attractive place to live, work and do business.

The County Council has been fully engaged with TfN since July 2015 through its membership of Transport for Lancashire (TfL). As Chair of TfL, the Leader of the County Council, County Councillor Mein, currently represents Lancashire County Council, Blackpool Council, Blackburn with Darwen Council and Cumbria County Council on TfN's Partnership Board. The Lancashire Local Enterprise Partnership is represented on the Partnership Board by the Chair of the Cumbria Local Enterprise Partnership. The Chief Executive of Lancashire County Council currently provides similar representation on TfN's Executive Board and County Council officers are engaged in supporting TfN's various work streams, including development of the Northern Transport Strategy.

Since its establishment, TfN has developed as a strong and inclusive partnership, committed to drive forward the economy of the North through transformational investment in transport infrastructure. In response to this commitment from the North, the Government has undertaken to establish Transport for the North on a statutory basis, with powers drawn down from central government to support this role. Primary legislation to implement this commitment is set out in the Cities and Local Government Devolution Act 2016, enabling the Secretary of State for Transport to establish a statutory sub-national transport body (STB) following receipt of a proposal from authorities in that area, provided that the following two conditions are met:

1. The sub-national transport body would facilitate development and implementation of transport strategies for the area; and
2. Economic growth would be furthered by development and implementation of such strategies.

The Act does not create the powers for an STB to operate; rather it enables the functions of the STB to be derived from a limited number of sources, including:

- General functions provided for in Section 102H of the Local Transport Act 2008, including the preparation of a transport strategy and powers to advise, co-ordinate and make proposals;
- Other public authority functions (i.e. including functions of the Secretary of State) to be exercisable either instead of by, or jointly (but not concurrently) with the public authority;
- Local transport functions (i.e. functions of combined authorities, local transport authorities or Passenger Transport Executives) exercisable instead of by, or concurrent with, the CA, LTA or PTE.

It is currently envisaged that TfN would seek the following powers:

- Facilitate the development and implementation of the Northern Transport Strategy where this will further economic growth for the North;
- Coordinate and deliver a new North-wide system of smart and integrated ticketing; and
- Initially, to work jointly with the Government to ensure the investment programmes of Highways England and Network Rail are driven by the North's economic and connectivity priorities, and over time, assume sole responsibility for this client role.

The drawdown of powers described below is considered essential to achieving transformational economic growth in the North and reflects the Government's challenge to the North to be ambitious in its plans. The approach set out in the draft 'Proposal to Establish a Sub-national Transport Body', attached to this report as Appendix 'A', will establish TfN on a permissive statutory framework that will allow it to build capability and capacity over time, where this has the explicit agreement and consensus its members.

Powers drawn down from Central Government

TfN considers that, to be effective in its final form, it will need to be responsible for setting the strategic, pan-northern transport objectives for Highways England and Network Rail, including fully devolved responsibility for specifying franchised rail services. In effect, this would transfer the client role from the Department for Transport to the North, following similar principles for devolution to Scotland and Wales, where transport investment priorities are determined locally and according to economic priorities. Powers currently exercised by the Government would be exercised by TfN instead and would include:

- Setting and varying the objectives and priorities for the Road Investment Programme;
- Setting the objectives and priorities for the Rail Investment Programme; and
- Determining rail franchise service specification.

Achieving fully devolved status will by necessity involve transition through an interim 'co-decision' making role with the Government to fully devolved responsibilities as the capacity and capability of TfN matures. This is similar to the way that the Government's relationship with Rail North has evolved.

Powers exercised concurrently with Local Transport Authorities and Passenger Transport Executives

To facilitate the development and implementation of its Transport Strategy, TfN considers it will likely require the ability to exercise a number of powers held by combined authorities, local transport authorities or Passenger Transport Executives; these are set out in Appendix 'B'. These powers could only be exercised concurrently **and with the explicit agreement of the local transport authority in question**. The use of concurrent powers by TfN will not reduce the powers available to local areas.

TfN will continue to work with local transport authorities over the summer to develop the TfN operating model, including key principles and heads of terms for working arrangements, operating agreements and protocols that would need to be put in place. These will be available for consideration when the Government issues the draft STB regulations in the autumn, after which TfN member authorities will be invited to consent formally to the regulations and to membership of the STB.

Development and implementation of the STB's transport strategy will fully involve all northern Local Transport Authorities and be agreed by the elected members of its 19 constituent authority areas. TfN considers that this, together with the arrangements described above, will ensure that where the exercise of concurrent powers is required, consensus and workable solutions will be achieved.

Proposals for constitutional arrangements for the STB

The constitutional arrangements upon which TfN will be established include the following key principles:

- Voting arrangements;
- Funding;
- Integration of Rail North Limited; and
- Local accountability and operating model.

The STB proposal aims to replicate as far as possible the arrangements already established for TfN's non-statutory role, which has gained support from authorities and business leaders from across the North. These arrangements were considered by TfN's Partnership Board at its meeting on 9th June 2016 and further refinement will continue as the Government drafts the regulations. Member authorities will have a further opportunity to consent formally to the arrangements set out in the regulations in the autumn.

TfN will continue to endeavour to reach consensus on all its decisions; nevertheless, as a statutory body it will need to specify arrangements whereby it reaches decisions where unanimity is not possible. It is proposed to introduce a weighted system of voting based on population, as set out in Appendix 'C'. The weighted voting

entitlement of the constituent authorities will be determined on the basis of one vote for each 200,000 or part thereof of the resident population of its area as estimated annually by the Office of National Statistics (Resident Population). Certain decisions will require both a super-majority consisting of 75% of the weighted vote and a simple majority of the members appointed by the constituent authorities to be carried. Such decisions will be:

- The approval and revision of TfN's transport strategy;
- The approval of TfN's annual budget; and
- Any changes to TfN's constitution.

The regulations should also provide for constituent authorities to make statutory contributions as determined by TfN towards the costs of TfN, **provided only** that a decision to require such contributions and the overall amount of such contributions is unanimously agreed by all TfN members appointed by constituent authorities. The apportionment of such contributions would be determined on the basis of resident population, unless unanimously agreed to the contrary.

Integration of Rail North Limited

It is proposed that TfN should become the sole owner of Rail North Limited, provided that any changes to Rail North's constitutional arrangements ensure:

- That the rights and interests of those Rail North Limited member authorities that are not constituent authorities of TfN are protected;
- That Rail North member authorities that are TfN constituent authorities are able to retain rights similar to their existing rights through TfN's constitutional arrangements.

Such protection would include:

- Existing geographical sub-groups continuing to nominate directors of Rail North Limited;
- Rail North authorities that are not constituent authorities of TfN becoming co-opted members of TfN with a right to vote on 'Rail North' matters.

Under Section 23 and 26 to 30 of the Railways Act 1993, the Secretary of State is responsible for rail franchising. Rail North Limited jointly manages the Northern and Trans Pennine franchises with the Secretary of State and has various rights under a contractual agreement. At the end of the recently let franchises in 2023/25, it is envisaged that this function would be devolved to TfN.

Local accountability

TfN is seeking to establish its powers through devolution from central government, not through any loss of powers, responsibilities or funding from local authorities. TfN will work on the basis of 'subsidiarity', with local responsibilities exercised at local level, and cross-northern collaboration focused through TfN where it adds value and becomes greater than the sum of its parts. TfN will continue to work with local transport authorities during the regulations drafting period to clearly define the roles

and boundaries between TfN and local transport authorities. Several key principles have already been established through the emergence of TfN:

- The STB transport strategy will focus on enabling economic growth across the North;
- TfN allows the North's local transport authorities to adopt a coherent and integrated approach to strategic transport infrastructure planning across the North that enables local areas to grow their economies; and
- TfN exists to present a coherent and clear position to the Government and to national delivery agencies in respect of setting the strategic transport objectives for the area upon which subsequent interventions can be developed, appraised and implemented.

TfN does not expect any future funding allocations towards STBs to detract from those funds made available for local transport authorities.

Membership

Each constituent authority will appoint one of their councillors/members or their elected mayor as a member of TfN and another to act as a substitute member in the absence of the first aforementioned. To maintain continuity, subject to Council approval it is proposed that the Leader of the County Council, County Councillor Mein, is nominated as the County Council's representative on Transport for the North once it becomes legally established as a Sub-national Transport Body. It is also proposed that the Deputy Leader of the County Council, County Councillor Borrow be nominated as a substitute to attend meetings in the absence of the Leader of the Council.

Next steps

TfN intends to submit a proposal to establish a sub-national transport body for the North to the Government during the summer Parliamentary recess. The Chair of TfN, on behalf of its Partnership Board, has invited each of the 19 local transport authorities within the proposed STB area to consider the draft proposal attached as Appendix 'A' and consent to its submission to the Secretary of State.

Subsequent to the Secretary of State's review of the draft proposal and decision to proceed, it is anticipated that government lawyers will then draft the regulations over the summer. The Secretary of State will then consult on the draft regulations in the autumn, giving constituent local transport authorities a further final opportunity to review the regulations, ratify their consent and formally agree to become a member of TfN. Once all necessary consents are in place, the Department for Transport will institute parliamentary proceedings to establish TfN as a statutory body. The timetable for laying an Order before Parliament will be dependent on completion of a number of policy and legislative processes; however, TfN will maintain dialogue with DfT to mitigate any potential delays to securing an Order in spring 2017.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

No significant risks have been identified.

**Local Government (Access to Information) Act 1985
List of Background Papers**

Paper	Date	Contact/Tel
N/A		
Reason for inclusion in Part II, if appropriate		
N/A		

TRANSPORT FOR THE NORTH (TfN)

PROPOSAL TO ESTABLISH A SUB-NATIONAL TRANSPORT BODY (STB)

This proposal is made by the constituent authorities set out below pursuant to section 102F of the LTA 2008 for the establishment of a sub-national transport body (STB) covering the area of the constituent authorities. In making the proposal the constituent authorities have consulted the appropriate authorities and other persons set out in Schedule A to this proposal.

The proposal provides as follows:

1. **Constituent Authorities**

The constituent authorities making these proposals are the local transport authorities situated wholly or partly in the North East, North West and Yorkshire and the Humber regions of England, namely:-

Greater Manchester Combined Authority
 Liverpool City Region combined Authority
 North East Combined Authority
 Sheffield City Region Combined Authority
 Tees Valley Combined Authority
 West Yorkshire Combined Authority
 Cumbria County Council
 Lancashire County Council
 North Yorkshire County Council
 Blackburn with Darwen Unitary Authority
 Blackpool Unitary Authority
 Cheshire East Unitary Authority
 Cheshire West and Chester Unitary Authority
 Warrington Unitary Authority
 City of York Unitary Authority
 East Riding of Yorkshire Unitary Authority
 Hull Unitary Authority
 North Lincolnshire Unitary Authority
 North East Lincolnshire Unitary Authority

2. **Area of the STB**

The area of the STB will be the area of the constituent authorities

3. **Name of the STB**

The name of the STB will be **Transport for the North (TfN)**

4. **Membership**

- 4.1 Each constituent authority will appoint one of their councillors/members or their elected mayor as a member of TfN.
- 4.2 Each constituent authority will appoint another of their councillors / members or their elected mayor as a substitute member to act as a member of the TfN in the absence of the person appointed under paragraph 4.1.
- 4.3 There would be a presumption that decisions would normally be taken by consensus. But in the absence of such consensus there will be a system on weighted voting at full meetings of TfN *[using a formula to be agreed]* to reflect differences in the populations of the constituent authorities.
- 4.4 Some decisions including the adoption of the transport strategy and the approval of the annual budget, should require a super-majority of the weighted vote.

5. Co-opted Members

- 5.1 The regulation should provide for the appointment of persons who are not elected members of the constituent authorities to be co-opted members of TfN
- 5.2 *Persons appointed as co-opted members will include:*
 - (a) *the person appointed by TfN as “independent chair of the Partnership Board” for the purposes of paragraph 6.3 below and*
 - (b) *one elected member appointed by each of the local transport authorities which are members of Rail North Ltd, but not constituent authorities of TfN, namely:-*

Derbyshire County Council
Lincolnshire County Council
Nottinghamshire County Council
Nottingham City Council
Staffordshire County Council
Stoke-on-Trent City Council]
- 5.3 Co-opted members will be non-voting members of TfN, except to the extent that the voting members of TfN resolve that such members should have voting rights.

6. Partnership with Business

- 6.1 A business *body* will be established consisting of representatives of Local Enterprise Partnerships in the area covered by TfN.

- 6.2 The functions of this body will be to advise TfN on its policies and priorities, to conduct its own reviews on matters relating to transport and the economic well-being of the North and to make representations to TfN
- 6.3 TfN and *the business body* will establish a Partnership Board which will hold regular partnership meetings to be chaired by the person appointed by TfN as the “independent chair”.

7. Executive Arrangements

- 7.1 TfN will not operate formal statutory executive arrangements
- 7.2 TfN is a “local authority” for the purpose of section 101 of the Local Government Act 1972 and may delegate the discharge of its functions to a committee, sub-committee or officer, or to another local authority. As such, TfN may establish a committee(s) to discharge any functions as are delegated to it.
- 7.3 The functions of agreeing a budget and the transport strategy of TfN will **not** be delegated functions and will only be determined by a meeting of the full TfN.

8. Executive Body

TfN will not establish an executive officer body, but will delegate the discharge of agreed functions to its officers in accordance with a scheme of delegation or on an ad hoc basis.

9. Functions

The functions of TfN will include:

- General functions provided for in section 102H of the Local Transport Act 2008, including the preparation of a transport strategy.
- Local transport functions to be exercised by TfN concurrently with local transport authorities and PTEs
- Other public authority functions (including functions of the Secretary of State) to be exercised by TfN instead of by, or jointly with, the public authority
- The functional power of competence in **section 102M of the Local Transport Act 2008**

10. General Functions

The general functions of TfN should be:

- 10.1 to prepare a transport strategy for its area in accordance with **section 102 I of the Local Transport Act 2008**

- 10.2 to provide advice to the Secretary of State (SoS) about the exercise of transport functions in its area (whether exercisable by the SoS or others)
- 10.3 to co-ordinate the carrying out of transport functions that are exercisable by its different constituent authorities
- 10.4 to make proposals to the SoS for the transfer of transport functions to TfN
- 10.5 to make other proposals to the SoS about the role and functions of TfN

11. Exercise of local transport functions

- 11.1 It is **not** proposed that any transport functions exercisable by a local authority (or PTE) should be exercisable by TfN instead of by the local authority (or PTE), but it is proposed that various transport functions should be exercisable by TfN concurrently with the local authority or PTE as set out below.
- 11.2 TfN should have the same power of an ITA or CA under **sections 99 and 102 of the Local Transport Act 2008** to promote the economic, social and environment well-being of its area.
- 11.3 TfN should have the general powers of a PTE under **section 10 of the Transport Act 1968** (with the omission of the words “with the approval of the Authority” where they appear), including the power to carry passengers by railway between places in Great Britain.
- 11.4 TfN should have the same powers of a local transport authority under **sections 135-138 of the Transport Act 2000** in relation to making joint and through ticket schemes.
- 11.5 TfN should have the same powers of a local authority under **section 239 of the Local Government Act 1972** to promote and oppose local or personal Bills in Parliament (which bring in rights to apply for orders under the Transport and Works Act 1992).
- 11.6 TfN should have the same powers and rights of a PTE under **section 13 of the Railways Act 2005** including rights to be consulted in relation to franchise agreements for services to, from or within its area, and to enter into agreements with the SoS or franchisees in relation to such services.
- 11.7 TfN Should have the same power of a local authority under **section 56(2) of the Transport Act 1968** to give capital grants to persons for purpose of the provision of facilities for public passenger transport.

- 11.8 *TfN should have the power of county councils and unitary districts under **section 24 of the Highways Act 1980** to construct highways (subject to the consent of the highway authority) and their powers under **Part XII of the Highways Act 1980** to acquire land etc.*
- 11.9 There will be an operating agreement between TfN and the constituent authorities providing, inter alia, for the drawing up of agreed protocols in relation to the exercise of concurrent functions. Such protocols would be kept under regular review.

12. Other Public Authority Functions

- 12.1 TfN should have the function of the SoS under **section 3 and Schedule 2 of the Infrastructure Act 2015** to set and vary the Road Investment Strategy (RIS) insofar as the RIS relates to TfN's area. This function would be exercised jointly with the SoS.
- 12.2 TfN should have the function of the SoS under **Schedule 4A, paragraph 1D, of the Railways Act 1993**. In relation to the High Level Output Specification (HLOS) insofar as it relates to railway activity in TfN's area. This function should be exercised jointly with the SoS.
- 12.3 *Devolution of Rail Franchising*
- Under section 23 and 26 to 30 of the Railways Act 1993, the SoS is responsible for the rail franchising. RNL jointly manage with the SoS the Northern and Transpennine franchises and have various rights under a contractual agreement. At the end of the recently let franchises in 2023/25, it is envisaged that the function would be devolved to TfN. The preferred legal route is that there should be an exemption order under section 24 enabling TfN to let concessions in the same way as TfL and Merseyside PTE do with exempted services in their area. [An alternative route would be to devolve the franchising functions of the SoS under the Railways Act 1993 to TfN as in Scotland and Wales]*
- 12.4 **Section 6(5) of the Highways Act 1980** enables the SoS or Highways England to enter into agreements with a county council or metropolitan district council for the construction or improvement of trunk roads. It is proposed that this section be modified to include TfN as an authority having power to enter into such agreements.
- 12.5 **Section 8 of the Highways Act 1980** enables local highways authorities or Highways England to enter into agreements with other such authorities in relation to the construction, improvement or maintenance of a highway for which any party to the agreement is the highway authority. It is proposed that this section be modified to

enable TfN to be a party to such agreements as if they were a highway authority.

13. Financial

13.1 TfN should be able to accept voluntary contributions to its costs from constituent authorities.

13.2 *Constituent councils should be required to make statutory contributions towards the costs of TfN to be apportioned on the basis of resident population, provided only that a decision to require such contributions is agreed by all constituent councils.*

13.3 An order should be made by the Treasury specifying TfN (or STBs generally) as a body to which **section 33 of the Value Added Tax Act 1994** applies. This would enable TfN to claim refunds of VAT paid by it in certain cases.

14. Scrutiny

14.1 It is proposed that TfN arrange for the appointment of a scrutiny committee including one member of each constituent authority nominated by the constituent authority.

14.2 The scrutiny committee appointed by TfN may not include a member, substitute member or co-opted member of TfN, but may include co-opted persons representative of non-constituent authorities and non-councillor representatives of passengers, road users, employers and employees.

14.3 The arrangements should ensure that the scrutiny committee has power:-

- (a) to review and scrutinise decisions made, or other action taken, by TfN
- (b) to make reports or recommendations with respect to the discharge of the functions of TfN
- (c) to make reports or recommendations on transport matters that affect the area of TfN or inhabitants of the area
- (d) to require members or officers of TfN to attend meetings of the committee to answer questions.
- (e) to invite other persons to attend meetings of the committee

15. Rail North Ltd (RNL)

15.1 *It is proposed that TfN should become the sole owner of RNL, provided that any changes to RNL's constitutional arrangements ensure:*

- *That the rights and interests of those RNL member authorities which are not constituent authorities of TfN are protected*
- *That RNL member authorities which are TfN constituent authorities are able to retain rights similar to their existing rights through TfN's constitutional arrangements*

15.2 *Such protection would include:*

- *Existing geographical sub-groups continuing to nominate directors of RNL*
- *RNL authorities which are not TfN constituent authorities becoming co-opted members of TfN with a right to vote on "Rail North matters"*

16. **Miscellaneous**

It may be necessary that certain additional local authority enactments are applied to TfN as if TfN were a local authority, including staffing arrangements, pensions etc. In this respect, it is also proposed that TfN should be a "local authority" for the purposes of **section 1 of the Local Authorities (Goods and Services) Act 1970**, to enable constituent authorities to provide services to TfN.

Summary of STB / LTA / PTE Concurrent Powers

To facilitate the development and implementation of its Transport Strategy, TfN will likely require the ability to exercise the following powers. These powers could only be exercised concurrently **and with the explicit agreement of the Local Transport Authority in question.**

- The power to promote the economic, social and environmental well-being in TfN's area.
- The power to promote or oppose local or personal Bills in Parliament or apply for Transport and Works Act Orders.
- The power to make a pan-northern smart ticketing scheme.
- The power to carry passengers by railway throughout the North and from the North to other places in Great Britain.
- The right to be consulted on invitations to tender for rail franchise agreements affecting the North and the power to enter into agreements with the Secretary of State or franchise operators in connection with such franchises.
- The power to make capital grants to persons for the provision or improvement of facilities for public passenger transport.
- The right to be party to voluntary agreements with the Secretary of State, Highways England or local highway authorities in relation to the construction or improvement of highways.
- The power to acquire land.

TfN Legislation - Voting Arrangements

TfN Combined Authority, County Council, Unitary Authority	Population	% of population	Recommended	Alternatives Considered					Rail North
			Weighted Vote (1 per 200k of pop or part thereof)	Weighted Vote (1 per 0.1% of TfN pop)	Weighted Vote (1 per 250k of pop or part thereof)	Weighted Vote (1 per 500k of pop or part thereof)	Weighted Vote (1 per 1,000k of pop or part thereof)	Rail North Votes (1 per 0.1% of pax miles)	
Greater Manchester CA	2,732,854	18.08%	14	181	11	6	3	223	
Leeds City Region / WYCA	2,264,329	14.98%	12	150	10	5	3	209	
North East CA	1,952,473	12.92%	10	129	8	4	2	65	
Liverpool City Region CA	1,517,463	10.04%	8	100	7	4	2	59	
Sheffield City Region CA	1,365,847	9.04%	7	90	6	3	2	78	
Lancashire CC	1,184,735	7.84%	6	78	5	3	2	55	
Tees Valley CA	666,237	4.41%	4	44	3	2	1	33	
North Yorkshire CC	601,536	3.98%	4	40	3	2	1	32	
Cumbria CC	497,874	3.29%	3	33	2	1	1	40	
Cheshire East UA	374,179	2.48%	2	25	2	1	1	21	
East Riding of Yorkshire UA	337,115	2.23%	2	22	2	1	1	9	
Cheshire West and Chester UA	332,210	2.20%	2	22	2	1	1	11	
Hull City Council	257,710	1.71%	2	17	2	1	1	13	
Warrington UA	206,428	1.37%	2	14	1	1	1	12	
City of York UA	204,439	1.35%	2	14	1	1	1	54	
North Lincolnshire	169,247	1.12%	1	11	1	1	1	4	
North East Lincolnshire	159,804	1.06%	1	11	1	1	1	6	
Blackburn with Darwen UA	146,743	0.97%	1	10	1	1	1	6	
Blackpool UA	140,501	0.93%	1	9	1	1	1	15	
Total	15,111,724		84						
Enhanced Majority 75%			63						
TfN Rail North Co-opted Member Areas									
Staffordshire CC	860,165							1	
Nottinghamshire CC	801,390							3	
Derbyshire CC	779,804							14	
Lincolnshire CC	731,516							7	
Nottingham City Council CC	314,268							15	
Stoke-on-Trent City Council	251,027							8	

Meeting of the Full Council
Meeting to be held on Thursday, 21 July 2016

Report submitted by: Head of Legal & Democratic Services

Part A

Electoral Division affected:
(All Divisions)

The Council's Code of Corporate Governance
(Appendix 'A' refers)

Contact for further information:
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paul.bond@lancashire.gov.uk

Executive Summary

The Audit and Governance Committee have considered and approved a revised Code of Corporate Governance for the County Council.

The Full Council in July 2015 approved a new Code of Corporate Governance for the County Council and an Action Plan for 2015/16. This was based on the current guidance at that time. Full Council also agreed that the Code would be reviewed on an annual basis. However, new guidance was published earlier this year and as a consequence the Code of Corporate Governance has been updated to reflect the changes and it was presented to Audit and Governance Committee on 30th June 2016 for approval.

The draft revised version of the Code of Corporate Governance and Action Plan is presented for the Full Council's approval at Appendix 'A'.

Recommendation

The Full Council is asked to approve the draft revised Code of Corporate Governance set out at Appendix 'A'.

Background and Advice

In July 2015 the Full Council approved a new Code of Corporate Governance for the County Council and agreed that the Code would be reviewed by the County Council every year. The Full Council also approved an Action Plan to the Code for 2015/16. The Code has been widely communicated to members, officers and stakeholders.

The Code was based on CIPFA and the Society of Local Authority of Chief Executives (SOLACE) best practice guidance: Delivering Good Governance in Local

Government Framework document, and should articulate and be consistent with the expected standards, principles and values by which Lancashire County Council Officers and Members will operate. There should be clear links between the principles within the Code, and the governance framework of strategies, policies and procedures which underpin it. The Code should be consistent with the core principles defined in the CIPFA/SOLACE Framework, each supported by subprinciples that should underpin the governance framework of a local authority. The Code was also in a format that included sources of evidence providing clarity for Members, Officers and stakeholders about how the organisation uses the principles of the Code in practice. However, since agreeing the Code of Corporate Governance, the guidance referred to above has been updated and a new set of principles have been agreed by CIPFA/SOLACE.

Therefore, the Code now presented at Appendix 'A' has been updated to reflect the seven new core principles and includes sources of evidence as previously shown. It also incorporates a revised action plan for 2016/17.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

Good governance enables an authority to pursue its vision effectively as well as underpinning that vision with sound arrangements for control and management of risk. An Authority must ensure that it has a sound system of internal control which includes effective arrangements for the management of risk. Failure to develop and maintain a local Code of Corporate Governance and publish an AGS means the Council would be negligent in its responsibilities for ensuring accountability and the proper conduct of public business.

Legal Implications

The Council must adopt a Code of Corporate Governance which has been produced to the standards prescribed in the best practice guidance in order to prepare the Annual Governance Statement (AGS). The best practice guidance is recognised as the CIPFA/SOLACE Framework: Delivering Good Governance in Local Government (2016).

Financial Implications

Good governance leads to good management, good performance and good stewardship of public money, good public engagement and ultimately good outcomes for citizens and service users. However, there are costs associated with embedding and continuing good governance practices, and as the Council's

organisational structures develop, the costs associated with governance need to be monitored to ensure they remain proportionate.

Local Government (Access to Information) Act 1985
List of Background Papers

Paper	Date	Contact/Service/Tel
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N/A

Reason for inclusion in Part II, if appropriate

N/A

Code of Corporate Governance 2016/17

What is Corporate Governance?

Corporate governance is about the systems, processes and values by which Councils operate and by which they engage with, and are held accountable to, their communities and stakeholders.

Lancashire County Council is committed to the principles of effective corporate governance and has therefore adopted a Code of Corporate Governance which follows the latest guidance issued by the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Society of Local Authority Chief Executives (SOLACE), entitled "Delivering Good Governance in Local Government (2016)"

The guidance defines the seven core principles, each supported by sub-principles that should underpin the governance framework of a local authority.

- Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rules of law.
- Ensuring openness and comprehensive stakeholder engagement.
- Defining outcomes in terms of sustainable economic, social and environmental benefits.
- Determining the interventions necessary to optimise the achievement of the intended outcomes.
- Developing the Council's capacity, including the capability of its leadership and the individuals within it.
- Managing risks and performance through robust internal control and

strong public financial management.

- Implementing good practices in transparency, reporting, and audit, to deliver effective accountability.

What are the benefits of having a Code of Corporate Governance?

Good governance leads to good management, good performance, good stewardship of public money, good public engagement and ultimately good outcomes for citizens and service users. It enables the Council to pursue its vision effectively as well as underpinning that vision with mechanisms for control and the management of risk.

Lancashire County Council has a robust governance framework in place. The documents and arrangements which comprise the framework demonstrate that the Council continually seeks to ensure it is and remains, well governed, through integration of with the core principles of the CIPFA/SOLACE framework into all aspects of the Council's conduct and operation.

The Monitoring Officer is responsible for ensuring the Code is reviewed annually, and the outcome of the review, along with adoption of any revision to the Code is reported annually to the Audit and Governance Committee for approval.

Lancashire County Council Code of Corporate Governance (Principle 1)

Principle 1: Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rules of law:		
Supporting Principles	To meet the requirements of this Principle, Lancashire County Council will;	This will be evidenced by:
<ul style="list-style-type: none"> • Behaving with integrity • Demonstrating strong commitment to ethical values • Respecting the rule of law 	<ul style="list-style-type: none"> • Maintain shared values (Fair, Trustworthy, Ambitious, to have belief in people) both for the County Council and its officers. These are defined in the draft corporate strategy and reflect public expectations about the conduct and behaviour of individuals. • Use shared values as a guide for decision making and as a basis for developing positive and trusting relationships within the County Council. We demonstrate this by adherence to the constitution. • Have adopted formal codes of conduct defining standards of personal behaviour for Members and officers. • Maintain the Audit and Governance Committee to raise awareness and take the lead in ensuring high standards of conduct are embedded within the County Council's culture. • Have put in place arrangements to ensure that Members and staff of the County Council are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders. We have put in place appropriate processes to ensure that these arrangements are workable including declaration of interests and anti-corruption policies. • Ensure that systems and processes for financial administration and control together with protection of the County Council's resources and assets, comply with ethical standards; and are subject to monitoring of their effectiveness. • Ensure that professional advice on matters that have 	<ul style="list-style-type: none"> • Draft Corporate Strategy • The Constitution which includes : <ul style="list-style-type: none"> ➤ Financial Procedure Rules ➤ Procurement Rules ➤ Anti-Fraud and Corruption Strategy ➤ Anti-Bribery Policy ➤ Rules relating to Members External Interests ➤ Rules relating to Gifts and Hospitality ➤ Codes of Conduct for Members and Employees ➤ Scheme of Delegation to officers • Information Security Policy • Information Governance Policy • Money Laundering Policy • Whistleblowing Policy • Annual Governance Statement • External inspections of

	<p>legal or financial implications is available and recorded well in advance of decision making if appropriate. Officers will actively recognise the limits of lawful activity placed on them but also strive to utilise their powers to the full benefit of their communities.</p> <ul style="list-style-type: none">• Officers will observe all specific legislative requirements placed upon the Council as well as the requirements of general law, and in particular integrate the key principles of administrative law – rationality, legality and natural justice into the procedures and decision making.• Have put in place effective systems to protect the rights of staff. We ensure that policies for whistle-blowing which are accessible to staff and those contracting with the Council, and arrangements for the support of whistle-blowers, are in place.• Have established an information governance group (CIGG) with the remit of collecting assurance information across all council functions.• Publish an Annual Governance Statement, signed by the Leader of the Council and the Chief Executive to review the effectiveness of the Council's governance framework.	<p>accounts</p>
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Lancashire County Council Code of Corporate Governance (Principle 2)

Principle 2: Ensuring openness and comprehensive stakeholder engagement:		
Supporting Principles	To meet the requirements of this Principle, Lancashire County Council will;	This will be evidenced by:
<ul style="list-style-type: none"> • Openness • Engaging comprehensively with institutional stakeholders • Engaging with individual citizens and service users effectively 	<ul style="list-style-type: none"> • Ensure that the Council’s vision, strategic plans, priorities and targets are developed in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated. • Maintain a culture of accountability so that Members and Officers understand to whom they are accountable and for what. • Strive to engage with stakeholders on an individual and collective basis to demonstrate that we deliver services and outcomes that meet the needs and expectations of the public. These arrangements will recognise that different sections of the community have different priorities and establish robust processes for dealing with these competing demands. • Publish reports giving information on the County Council’s strategies, plans and financial statements as well as information about outcomes, achievements. • Deliver effective scrutiny of the County Council’s business as appropriate and produce an annual report on the activities of scrutiny function. • Ensure that the Council as a whole is open and accessible to the community, service users and staff and we are committed to openness and transparency in all dealings. • Publish all executive and committee reports under “Part 1” – open for inspection the public - unless there is a legitimate need to preserve confidentiality on the basis of the statutory tests. 	<ul style="list-style-type: none"> • Research and Consultation Strategy • Research and Consultation Database • Constitution • Scheme of Delegation • Money Matters Budget reports • Lancashire Health & Wellbeing Strategy • Community Safety Agreement • Director of Public Health Annual Report • Children’s and Young Peoples Plan • Statement of Accounts • Scrutiny Reports • County Council Website • Public consultation in relation to proposed policy changes which may have a negative impact on the public, and comply with the public sector equality duty • Joint Strategic Needs Assessment • Strategic Assessment of Crime & Anti-Social behaviour

Lancashire County Council Code of Corporate Governance (Principle 3)

Principle 3: Defining outcomes in terms of sustainable economic, social and environmental benefits:		
Supporting Principles	To meet the requirements of this Principle, Lancashire County Council will;	This will be evidenced by:
<ul style="list-style-type: none"> • Defining outcomes • Defining sustainable economic, social and environmental outcomes benefits 	<ul style="list-style-type: none"> • Make a clear statement of the Council's purpose and vision and use it as a basis for corporate and service planning. • Publish annual reports to communicate the Council's activities and achievements, its financial position and performance. • Ensure that those making decisions are provided with financial and non-financial information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications. • Identify and monitor service performance indicators which demonstrate how the quality of service for users is to be measured. • Maintain a prudential financial framework, balance commitments with available resources; and monitor income and expenditure levels to ensure this balance is achieved. • Ensure compliance with the CIPFA codes regarding a Prudential Framework for Capital Finance and Treasury Management. 	<ul style="list-style-type: none"> • Draft Corporate Strategy • Money Matters Budget Reports • Director of Public Health Annual Report • Reports to Audit & Governance Committee • Quality of Service Reports to CCPI • Money Matters reports • Service Standards • Commissioning Plans • Statement of Accounts • External Auditors letter & reports • External Inspections

Lancashire County Council Code of Corporate Governance (Principle 4)

Principle 4: Determining the interventions necessary to optimise the achievement of the intended outcomes		
Supporting Principles	To meet the requirements of this Principle, Lancashire County Council will;	This will be evidenced by:
<ul style="list-style-type: none"> • Determining interventions. • Planning interventions • Optimising achievement of intended outcomes 	<ul style="list-style-type: none"> • Make a clear statement of the Council’s purpose and vision and use it as a basis for corporate and service planning. • Have risk management arrangements in place including mitigating actions to support the achievement of the Council’s intended outcomes. • Ensure that there are effective arrangements in place to monitor service delivery • Put in place effective arrangements to deal with a failure in service delivery and explore options for improving service delivery and outcomes for our residents. • Have prepared contingency arrangements including disaster recovery plans and business continuity plans to ensure resilience in delivering services, for example during adverse weather conditions. • Provide senior managers and Members with timely financial and performance information. • Ensure that budget calculations are robust • Align financial and performance data to provide an overall understanding of performance. 	<ul style="list-style-type: none"> • Draft Corporate Strategy • Our approach to Risk & Opportunity Management • Corporate Risk & Opportunity Register • Quality of Service Reports • Corporate Performance reports to CCPI • Performance Highlight Reports to Management Team and operational management teams • Business Continuity Plans • Emergency & Resilience Plans

Lancashire County Council Code of Corporate Governance (Principle 5)

Principle 5: Developing the County Council's capacity, including the capability of its leadership and the individuals within it.		
Supporting Principles	To meet the requirements of this Principle, Lancashire County Council will;	This will be evidenced by:
<ul style="list-style-type: none"> • Developing the County Council's capacity • Developing the capability of the County Council's leadership and other individuals 	<ul style="list-style-type: none"> • Through the constitution set out a clear statement of the respective roles and responsibilities of the Council's Executive, the Full Council and individual Members. • Set out a clear statement of the respective roles and responsibilities of the Council's other committees and senior officers. • Have developed protocols to ensure effective communication between Council Members and officers in their respective roles. • Set out the terms and conditions for remuneration of officers and publish an Annual Pay policy statement in accordance with the requirements of the Localism Act 2011. • Review and approve the Members' Allowance Scheme on an annual basis on the recommendation of the Remuneration Panel • Reviewing and updating the scheme of delegation within the constitution on a regular basis • Ensure that effective management arrangements are in place. • Ensure the Chief Executive is responsible and accountable to the Council for all aspects of operational management. • Ensure the S151 Officer has direct access to the Chief Executive and other members of the leadership team. • Support the Section 151 Officer in ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control. 	<ul style="list-style-type: none"> • Constitution • Annual Pay Policy Statement • Members' Allowance Scheme • Scheme of Delegation • Interim Structures agreed • Member Development Working Group • Leadership Development Programme • Personal Development Appraisals • Member Development Programme • Member Induction Working Group • Ofsted Post Inspection Improvement Plan

	<ul style="list-style-type: none">• Support the Monitoring Officer in ensuring that the constitution and the Code of Conduct for Elected Members are adhered to.• Assess the skills required by Members including the understanding of financial systems. We will agree a personal development plan to develop skills and address any training gaps, to enable roles to be carried out effectively.• Assess the skills required by officers through the appraisal process and address any training gaps, to enable roles to be carried out effectively.• Develop skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed.• Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the Council.• Provide the Director of Financial Resources with the resources, expertise and systems necessary to perform the role effectively within the County Council.• Provide the Corporate Director Operations and Delivery with the resources, expertise and systems necessary to perform the role effectively within the Council.	
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Lancashire County Council Code of Corporate Governance (Principle 6)

Principle 6: Managing risks and performance through robust internal control and strong public financial management.		
Supporting Principles	To meet the requirements of this Principle, Lancashire County Council will;	This will be evidenced by:
<ul style="list-style-type: none"> • Managing risk • Managing performance • Robust internal control. • Managing data. • Strong public financial management 	<ul style="list-style-type: none"> • Maintain an effective Audit & Governance Committee which is independent of the executive and scrutiny functions. • Enable the Director of Financial Resources to bring influence to bear on all material decisions and provide advice on the levels of reserves and balances to be retained. • Ensure that risk management is embedded into the culture of the County Council, with Members and managers at all levels recognising that risk management is part of their job. • Ensure our arrangements for financial and internal control and management of risk are formally addressed within the annual governance statement. • Ensure effective internal control arrangements exist for sound financial management systems and processes. • Ensure that a Corporate Performance Summary is presented to the Cabinet Committee for Performance Improvement on a quarterly basis • Ensure that quarterly Quality of Service and highlight reports are produced and used to hold Cabinet Members and officers to account 	<ul style="list-style-type: none"> • Audit & Governance Committee • Money Matters Budget Reports • Approach to Risk Management and publication of a quarterly Corporate Risk & Opportunity Register • Annual Governance Report • Performance reports presented to CCPI • Internal Audit Reports • Quality of Service Reports

Lancashire County Council Code of Corporate Governance (Principle 7)

Principle 7: Implementing good practices in transparency, reporting and audit to deliver effective accountability		
Supporting Principles	To meet the requirements of this Principle, Lancashire County Council will;	This will be evidenced by:
<ul style="list-style-type: none"> • Implementing good practice in transparency • Implementing good practices in reporting • Assurance and effective accountability 	<ul style="list-style-type: none"> • Comply with the local government transparency code and publish all required information in a timely manner. • Have established a medium term financial planning process in order to deliver a financial strategy ensuring sustainable finances, a robust annual budget process ensuring financial balance and an adequate monitoring process; all of which are subject to regular review. • Put in place effective transparent and accessible arrangements for dealing with complaints. • Maintain an effective scrutiny function which encourages constructive challenge and enhances the Council's performance overall. • Maintain an effective Audit Committee which is independent of the Executive and Scrutiny committees. • Ensure an effective internal audit function is resourced and maintained. • Maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based. • Publish all executive and committee reports under "Part 1" – open to inspection by the public - unless there is a legitimate need to preserve confidentiality on the basis of the statutory tests. • Put in place arrangements for whistle-blowing to which staff and all those contracting with the County Council have access. • Produce clear, timely, complete and accurate information for budget holders and senior officers relating to the 	<ul style="list-style-type: none"> • MTFS • Complaints Procedures • Scrutiny Committees • Audit & Governance Committee • Constitution • Modern.Gov • Whistle-blowing Policy • Monthly budget monitoring reports • Annual Pay Policy Statement

	<p>budgetary and financial performance of the Council.</p> <ul style="list-style-type: none">• Maintain effective arrangements for determining the remuneration of senior staff and publish an Annual Pay Policy statement in accordance with the requirements of the Localism Act 2011.• Publish annually details of County Councillors' allowances and expenses	
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Code of Corporate Governance Action Plan 2016/17

Key Action	Responsible Officer
<p>1. Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law/Defining outcomes in terms of economic, social and environmental benefits/Determining the interventions necessary to optimise the achievement of intended outcomes:</p> <p>A draft Corporate Strategy, has been produced and has been subject to Consultation. Cabinet considered the Strategy document and the approach contained within it at its meeting of the 26 November 2015. The Strategy was submitted to full Council on the 17 December 2015. The Strategy was debated and amendments agreed. It was resolved that the Corporate Strategy, as now amended, be approved subject to the section 'Our approach to service delivery' being referred back to Cabinet for further consideration. That review process is ongoing.</p>	<p>Director of Corporate Commissioning</p>
<p>2. Defining outcomes in terms of economic, social and environmental benefits:</p> <p>Developing service/commissioning plans that reflect new service offers and priorities in the draft corporate strategy - This work is ongoing and has been informed by the work undertaken to deliver the base budget review and the draft Corporate Strategy. The Corporate Strategy and the principles contained within it have also guided the preparation of the Capital Programme.</p> <p>Service/commissioning plans will continue to be refined as documents that support the core Strategy of the Corporate Plan and as the approach to service delivery is finalised. These will include the Neighbourhoods Plan. In addition to this detailed service plans and commissioning plans, with clear delivery expectations, will be refined as part of the current review processes for young peoples and adults services.</p>	<p>Director of Corporate Commissioning</p>
<p>3. Defining outcomes in terms of economic, social and environmental benefits</p> <p>Service standards are being comprehensively reviewed, linked to the development of the Neighbourhoods plan, resource availability and ongoing service reviews. The target date for completion is December 2016 although the standards will be subject to regular review and performance monitoring.</p>	<p>Director of Corporate Commissioning</p>

Meeting of the Full Council

Meeting to be held on 21 July 2016

Report submitted by: Head of Procurement

Part A

Electoral Division affected:
None

Revised Procurement Rules and Scheme of Delegation to Cabinet Members (Appendix 'A' refers)

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Executive Summary

The report sets out proposals to update the County Council's Procurement Rules.

The report also proposes an amendment to the approval process for tender exercises which are deemed to be Key Decisions, in order to enhance the efficiency of decision making.

Recommendation

The Full Council is asked to:

1. Approve the revised Procurement Rules set out at Appendix 'A'.
2. Agree that, subject to the approval of 1 above, the Rules be reviewed by the Procurement Board each year, and that the Director of Financial Resources be authorised to update the thresholds as required in line with changes to EU thresholds.
3. Agree that, where approval has been received from the Cabinet Member to undertake a tender process which is deemed to be a Key Decision, the subsequent award of the Contract on the satisfactory completion of the tender exercise shall not be deemed a Key Decision and can be approved by the relevant Head of Service or Director.
4. Authorise the Director of Governance, Finance and Public Services to make consequential amendments to the Constitution as required.

Background and Advice

The Procurement Rules (Rules) provide a framework for the procurement of all goods, services and works for the Council. The Rules are designed to ensure that the Council obtains the best value for money for the procurement of all goods, services and works and the Council complies with both English and European Law.

Full Council last approved the Procurement Rules in December 2008. Since then changes have been made to legislation with the introduction of The Public Contract Regulations 2015. The purpose of this report is to recommend appropriate amendments to the Council's Procurement Rules to take account of this change in legislation.

Specific changes brought in by the 2015 Regulations which are reflected in the proposed amendments include:

- the introduction of a regime for social and other services set out in Schedule 3 to the 2015 Regulations, which have a higher EU threshold of £590,000 and a lighter touch for procurement arrangements;
- the introduction of new thresholds for all goods, services and works;
- new arrangements for the use of pre-qualification questionnaires in the procurement process; and
- the requirement to ensure that all procurement arrangements are lotted where appropriate so as to attract the interest of SME and VCFS organisations.

This process has also provided an opportunity to review the relevance of the current Procurement Rules with a view to ensuring that they support the smooth running of the organisation and are more closely aligned to the revised Scheme of Delegations to Heads of Service and Cabinet Members. This wider review of the Rules has identified the need for clarification over a number of the procedures which are included in the amended document including:

- requirements relating to framework agreements;
- requirements relating to grants;
- circumstances in which waivers to these rules can be requested; and
- circumstances appropriate to seal contracts.

In addition, amendments are proposed to reflect a more pragmatic approach to contract modifications, short term extensions which are in line with the 2015 Regulations and the approval process for awarding contracts. The revised Procurement Rules are set out at Appendix 'A'.

In particular, it is proposed that where approval has been received from the Cabinet Member to undertake a tender process, which is deemed to be a Key Decision, the subsequent award of the Contract on the satisfactory completion of the tender exercise shall not be deemed a Key Decision and can be approved by the relevant Head of Service or Director. It is proposed to introduce this amendment to the approval process from the date of approval of the revised Procurement Rules for all new procurement exercises going forward, the existing Cabinet Member approval arrangements at contract award stage will remain for procurement exercises which are currently ongoing.

It is also proposed that the Procurement Rules be reviewed by the Procurement Board each year with any changes being recommended to Full Council for approval. In addition, it is suggested that the Director of Financial Resources be authorised to update the financial thresholds as required in line with changes to EU thresholds. Such changes would not need the approval of Full Council.

It will be necessary to amend the current Scheme of Delegation to Heads of Service and Cabinet Members to reflect the above-mentioned position.

Consultations

The review of the Procurement Rules has been undertaken in conjunction with Legal and Democratic Services.

Implications:

Risk management

Failure to adopt the revised Rules will result in the County Council breaching Public Contract Regulations.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Tel
The Public Contract Regulations 2015		Rachel Tanner/ 01772 534904

Reason for inclusion in Part II, if appropriate

N/A

Lancashire County Council Procurement Rules

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1. Interpretation

1.1. In the Procurement Rules, the following terms shall have the following meanings:

Central Purchasing Body (CPB)	A Central Purchasing Body (CPB) means a Contracting Authority that: <ul style="list-style-type: none"> • acquires supplies or services intended for one or more Contracting Authorities; or <ul style="list-style-type: none"> • awards public Contracts for works, supplies or services intended for one or more Contracting Authorities; or <ul style="list-style-type: none"> • concludes framework agreements for works, supplies or services intended for one or more Contracting Authorities.
Contract	Means any contract, whether in writing or not, including but not limited to the provision of services, goods or supplies, any execution of works, the appointment of consultants, hire and leasing arrangements.
Contracting Authority	Shall have the meaning ascribed under the Regulations.
Council	Means Lancashire County Council.
Directive	Means Directive 2014/24/EU on public procurement.
EU Threshold	Means the thresholds above which the provisions of the Directive and the Regulations are held to apply as stated in Article 4 of the Directive.
Financial Regulations	Means Lancashire County Council's financial regulations published in accordance with s151 of the Local Government Act 1972.
Framework Agreement	Has the meaning ascribed in the Regulations, as set out at paragraph 6.1 of these Procurement Rules.

Procurement Documents	Has the meaning ascribed in the Regulations.
Regulations	Means the Public Contracts Regulations 2015 (as amended).
Schedule 3 Services	Refers to social and other services listed in Schedule 3 to the Regulations included at Appendix A for ease of reference.
Scheme of Delegation	Means the Council's Scheme of Delegation to Heads of Service
SME	Means small and medium enterprises.
Tender Process	Refers to any process to appoint a contractor.
TFEU	Means the Treaty on the Functioning of the European Union.
Third Sector	Means non-government and non-profit making organisations or associations, including charities, voluntary and community groups.
Works, Supplies and Services	As defined in the Directive.

1.2 Where the term "contractor" is used, this should be taken to include any provider or supplier of Works, Supplies and Services or economic operator as defined within the Regulations at Regulation 112.

2. Scope and Status of Procurement Rules

2.1. The Council is required as a matter of law¹ to make standing orders in connection with its contracting requirements for goods and supplies, services and works. These Procurement Rules form part of the Council's constitution and compliance with them by all staff is mandatory.

2.2. The Council is a Contracting Authority for the purposes of the Regulations and is therefore legally bound to comply with certain practices and procedures in the award of Contracts to which the Regulations apply.

2.3. These Procurement Rules are designed to assist the Council in complying with relevant legislation and to ensure that the public purse is managed in a proper and responsible fashion and in a way which will promote value for money and act as a safeguard for the Council and its staff against any allegations of dishonesty and corruption.

2.4. Consequently, save for the exceptions listed at 2.8, every Contract made by or on behalf of the Council shall comply with the provisions and principles of the TFEU, the Directive, the Regulations and all other applicable EU and domestic legal requirements, these Procurement Rules

¹ S135 Local Government Act 1972

and Financial Regulations. In the event of any inconsistency between the provisions of the Procurement Rules and any legal requirement then the legal requirement shall prevail.

- 2.5. These Procurement Rules are supplemented by the Council's Procurement Strategy and Social Value Policy; and regard must be had to them in relation to any procurement activity.
- 2.6. When conducting procurement activities all staff must comply with the County Council Code of Conduct for Employees.
- 2.7. Where any employee either of the Council or of a contractor may be affected by any change in supplier/contractor, it is essential that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) are considered prior to commencing any Tender Process.
- 2.8. The provisions of these Procurement Rules shall not apply to Contracts for the provision of legal services or land transactions to the extent that these are exempted from the application of the Regulations and the Directive. In cases such as these further advice should be sought from Legal and Democratic Services.

3. Required approvals

- 3.1 Where contractual spend concerns a key decision² then appropriate approval to undertake a Tender Process should be sought from the relevant Cabinet Member. This approval will provide authority to proceed to award a Contract on the completion of the Tender Process, in which case no further approval will be required.
- 3.2 Where contractual spend would not involve a key decision the relevant Head of Service must approve the commencement of a Tender Process. The Head of Service must approve the award of a Contract on the satisfactory completion of the Tender Process prior to entering into a Contract or notifying any person or organisation of the Council's intention to award a contract. The same Head of Service shall ensure the relevant Cabinet Member is informed and the decision is recorded using the Scheme of Delegation recording system.
- 3.3 All key decisions made in relation to Contract awards shall be reported to Cabinet on a monthly basis and recorded on the Scheme of Delegation recording system.

4. Principles of procurement

- 4.1. Any Tender Process conducted by the Council shall comply with the following principles:-

² Advice in relation to what constitutes a [key decision](#) should be sought from Democratic Services

- 4.1.1. All contractors involved in any Tender Process shall be treated equally and without discrimination.
 - 4.1.2. All Tender Processes should be conducted in a transparent and proportionate manner.
 - 4.1.3. The design of any Tender Process shall not be made with the intention of excluding it from the scope of the Regulations and/or the Directive.
 - 4.1.4. Achieve value for money for public money spent.
 - 4.1.5. Be consistent with the highest standards of integrity.
 - 4.1.6. Comply with all legal requirements
- 4.2. For the avoidance of doubt, the provisions of paragraph 4.1 shall apply equally to tenders or procurement activities below the EU Threshold as above the EU Threshold.

5. Contract value, lotting, aggregation and supplier selection

- 5.1. It is important to properly estimate the total value of a Contract on the basis that different rules apply depending the nature and value of a Contract (please refer to paragraphs 9, 10 and 11). Please note that paragraph 11 only applies to Schedule 3 Services (as set out in Appendix A) and not to services Contracts generally.
- 5.2. The estimated total value of a Contract shall be the total value of the Contract net of VAT. This is the total consideration estimated to be payable over the full term of the Contract by the Council to the contractor, including any extensions.
- 5.3. Where the Contract is one where the benefit to the contractor is made up entirely or in part from benefits *other* than simple monetary payment³ from the Council, a best estimate of the total financial value should nonetheless be ascertained and this should be treated at the relevant Contract value for the purposes of the application of the remainder of this paragraph 5.
- 5.4. Where, in relation to Contracts for Services, the Contract period or total value of the Contract is indefinite or uncertain, the estimated value shall be calculated on the basis that the Contract will be of four years' duration.
- 5.5. Where the Contract has an option to extend, then the proposed extension period must be included in determining the Contract value.

³ Such other benefits may include but are not limited to concessions, options, licences or more generally exposure to other opportunities or funding streams,

- 5.6. The estimated value of a Framework Agreement is the total value of all the Contracts which could be entered into by the Council (and other Contracting Authorities if appropriate) over the duration of the Framework Agreement.
- 5.7. In the case of supply/goods Contracts which are regular in nature (i.e. a series of similar individual purchases throughout the year), there is a requirement to aggregate these and assess their value on the basis of spend over the preceding 12 months or, where such data is unavailable, the estimated value over the 12 months following the first delivery under the contract to be procured; and this calculation is to be used as the relevant Contract value for the purposes of the application of these Procurement Rules.
- 5.8. Purchases of the same or similar nature must be aggregated wherever practicable; and it is unlawful to deliberately disaggregate purchases so as to avoid the application of the Regulations..
- 5.9. For Contracts above EU Threshold under the Regulations purchase requirements should be lotted where appropriate so as to attract the interest of SME and VCFS organisations. Where this is not practicable the justification for the decision must be recorded on any associated report and/or Procurement Initiative Plan.
- 5.10. Where purchase requirements are lotted, the estimated value of Contracts should be the estimated value of all lots envisaged for the total term.
- 5.11. Whatever method is used for the calculation of the estimated Contract value, you must not choose a manner of estimated Contract values with the deliberate intention of excluding that Contract from the scope of the application of the Regulations or the Directive.
- 5.12. Contracts which are below the relevant EU Threshold may still need to be procured in accordance with the treaty principles of proportionality, mutual recognition, transparency, non-discrimination and equal treatment (derived from the TFEU), where there is potential for cross-border interest.
- 5.13. For the avoidance of doubt, Contracts relating to the leasing, hire, rental or hire purchase and Contracts for concessions are subject to the provisions of these Procurement Rules.
- 5.14. All contracts for works, services and goods in excess of £5 million will in accordance with the Government Procurement Policy Note 03/14: Measures to Promote Tax Compliance be subject to additional questions as part of the evaluation process.

6. Framework Agreements

6.1. The Regulations define a Framework Agreement as:

“an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged”.

6.2. In other words, a Framework Agreement is a general term for agreements with providers that set out terms and conditions under which specific purchases ("call-offs") can be made throughout the term of the Framework Agreement. It may be the case that a Framework Agreement itself is not a Contract, but the procurement to establish a Framework Agreement will still be subject to the Regulations and the Directive where the estimated value exceeds the relevant EU threshold, save where the subject matter of the framework is exempt from their application. All Framework Agreements established by the Council are required to be in writing.

6.3. The Council may set up its own Framework Agreements or may use Framework Agreements set up by other CPBs. Without prejudice to the remainder of this paragraph 6.3 and the requirements set out in paragraph 3 of these Procurement Rules, all purchases made via a CPB are deemed to comply with these Procurement Rules and no waiver will be required. In any eventuality, use of Framework Agreements must be exercised only through the Council's Procurement Services to ensure that such action reflects compliance with these Procurement Rules and the Regulations and any other appropriate legislation.

6.4. For the purposes of determining whether the value of a proposed Framework Agreement is such as to attract the application of the Regulations, please refer to paragraph 5.6 above.

6.5. For the avoidance of doubt, the use of select lists, preferred providers or approved providers shall, for the purposes of these Procurement Rules, be treated as a Framework Agreement and shall therefore require compliance with this paragraph 6 and these Procurement Rules generally.

6.6. A Framework Agreement shall not exceed 4 years' duration without prior approval of the Director of Legal and Democratic Services, which will only be given in exceptional circumstances where justified by the subject matter of the Framework Agreement. A call-off Contract may be let for a period of longer than 4 years, but not in a manner that distorts or restricts competition. Call-off Contracts should not in any event exceed more than 7 years' duration.

7. Grants

7.1. The award of grants of public money may invoke the State Aid Rules and/or the Regulations. In either case advice should be sought from Legal and Democratic Services Commercial and Procurement Team unless you have had confirmation from Government or a quasi-government body that the State Aid Rules and/or the Regulations do not apply OR you carry out appropriate procurement activity in compliance with these Procurement Rules and, where appropriate, the Regulations.

8. Use of Pre-Qualification Questionnaires (PQQs)

8.1 The use of PQQs for any Tender Process is governed by the Regulations (irrespective of value).

8.2 In order to determine whether you are permitted to use a PQQ and if you are, any requirement to use a national standard form PQQ is set out in Appendix C to these Procurement Rules.

8.3. In the event that you are required to use a standard form PQQ or alternatively you are not permitted to use a PQQ at all then this requirement cannot be deviated from or waived. The Procurement Service can provide further assistance and advice in connection with these requirements.

Paragraphs 9, 10 and 11 identify specific requirements for Service and Supply Contracts, Contracts concerning the execution of Works and Contracts for Schedule 3 Services.

The requirements set out below reflect the nature of the Services, Supplies and Works purchased by the Council and are designed to provide the most efficient and effective route to market, whilst maintaining compliance with both the Directive and the Regulations and appropriate governance.

9. Contract Procurement Activity Requirements for Services and Supplies by Value

Aggregate value	Quotes or Tender Process?	How should you approach the market?	Who undertakes the Procurement?	Must the Contract be formally advertised?	What is the minimum quote / tender period?
£0 to £9,999	Minimum of one quote	Email / Call Supplier for quote, raise requisition for LPS Purchasing Team. Use a Lancashire supplier if they offer best value.	Service Area	No	n/a
£10,000 to £74,999	Minimum of three quotes*	Raise a requisition for Procurement Service Purchasing Team, develop request for quotation documentation, quote process conducted through Oracle Sourcing Portal	Procurement Service Purchasing Team or Service Area where agreed.	No	10 days
£75,000 to £164,175	Via Tender Process	Oracle Sourcing Portal**	Procurement Service Category Management or Service Area where agreed.	Yes, via the LCC website and Contracts Finder	10 days
£164,176 and above	Via Tender Process	Oracle Sourcing Portal**	Procurement Service Category Management or Service Area where agreed.	Yes, via the OJEU, the LCC website and Contracts Finder	30 days (open procedure)

*If this is not reasonably practicable in the circumstances, the reasons for not doing so must be formally recorded by the relevant Head of Service.

**Whilst the Council's default option will be to tender electronically, there will be processes and procedures put in place to accept hard copies in appropriate circumstances by arrangement with the Procurement Service.

10. Contract Procurement Activity Requirements for Execution of Works by Value

Aggregate value	Quotes or Tender Process?	How should you approach the market?	Who undertakes the Procurement?	Must the Contract be formally advertised?	What is the minimum quote / tender period?
£0 to £24,999	Minimum of one quote	Email / Call Supplier for quote, raise requisition for LPS Purchasing Team. Use a Lancashire supplier if they offer best value.	Service Area	No	n/a
£25,000 to £99,999	Minimum of three quotes*	Oracle Sourcing Portal**	Procurement Service Purchasing Team or Service Area where agreed.	No	10 days
£100,000 to £4,104,393	Via Tender Process	Oracle Sourcing Portal**	Procurement Service Category Management or Service Area where agreed.	Yes, via the LCC website and Contracts Finder	10 days
£4,104,394 and above	Via Tender Process	Oracle Sourcing Portal**	Procurement Service Category Management or Service Area where agreed.	Yes, via the OJEU, the LCC website and Contracts Finder	30 days (open procedure)

*If this is not reasonably practicable in the circumstances, the reasons for not doing so must be formally recorded by the relevant Head of Service.

**Whilst the Council's default option will be to tender electronically, there will be processes and procedures put in place to accept hard copies in appropriate circumstances by arrangement with the Procurement Service.

11. Contract Procurement Activity Requirements for Service Contracts for Schedule 3 Services (Only applicable to Schedule 3 Services).

Aggregate value	Quotes or Tender Process?	How should you approach the market?	Who undertakes the Procurement?	Must the Contract be formally advertised?	What is the minimum quote / tender period?
£0 to £589,147	To be determined as appropriate by Procurement and Legal Services*	Oracle Sourcing Portal**	Procurement Service Category Management or Service Area where agreed.	No	n/a
£589,148 and above	Process followed to be communicated in notice.	Oracle Sourcing Portal**	Procurement Service Category Management or Service Area where agreed.	Yes, via the OJEU, the LCC website and Contracts Finder	n/a

*The Regulations still provide obligations of transparency and equal treatment on a Contracting Authority awarding a contract which is of cross-border interest, in which case some form of advertising of the opportunity and process is likely to be required.

**Whilst the Council's default option will be to tender electronically, there will be processes and procedures put in place to accept hard copies in appropriate circumstances by arrangement with the Procurement Service.

12. General Contract Requirements.

- 12.1. The optimum use of the Council's purchasing power must be made by aggregating purchases and through the use of Framework Agreements and Contracts. Where there is an approved Contract or Framework Agreement in place then this should be used in the first instance for purchasing Supplies, Services or Works.
- 12.2. All Contracts awarded by competitive tender must be in writing. Save where the Council's standard terms and conditions are used advice is to be sought from Legal and Democratic Services as to the suitability and adequacy of any proposed written conditions of contract.
- 12.3. In the event that a low value Contract carries a disproportionate risk by means of concerning high risk services or service users, or carrying significant reputational, operational or financial risk, advice should be sought from Legal and Democratic Services Commercial and the Procurement Service prior to any Contract award.
- 12.4. All Contracts, whether in writing or otherwise, shall require the Council to make payment within 30 days of receipt of an undisputed invoice and Contracts shall require a similar payment term to be reflected down any relevant supply chain.
- 12.5. In the case of any Contract in writing, reference should be had to the Scheme of Delegation as to who is authorised to attest the Council's seal or sign a particular Contract. If in doubt contact Democratic Services.
- 12.6. Notwithstanding the provisions of paragraph 12.5, any Contract that meets any of the following criteria MUST be made under seal:
 - 12.6.1. Any Contract that is required by law to be executed as a Deed (which includes but is not limited to appointment of trustees, transfers of land, powers of attorney, some formal scheme amendments – please seek further guidance from Legal and Democratic Services).
 - 12.6.2. Any agreement that is otherwise executed as a deed (for example, agreements for no consideration or where it is uncertain as to whether any valuable consideration exists (i.e. there is no price or no obvious benefit to a party), where an extended limitation period is required (standard Contracts have a 6 years limitation period whereas deeds have a 12 year limitation period).
- 12.7. In entering into any Contract you should have regard to and ensure compliance with any relevant provisions of the Scheme of Delegation to Heads of Service.

13. Contract Modification & Short Term Contract Extensions

- 13.1. Contracts may only be modified, changed or amended in very limited circumstances and regard should be had to Regulation 72 of the Regulations. Such modifications, changes or amendments that are not compliant with the Regulations may result in a legal challenge, including termination of the Contract. Prior to modifying any Contract, whether in terms of value, duration, scope or otherwise, advice must first be sought from the Procurement Service.
- 13.2. Provided justification is agreed by the relevant Head of Service, and recorded on the Scheme of Delegation recording system, any Contract may be extended beyond its advertised term, provided that each of following circumstances apply:
- i. a compliant procurement process has commenced and will be complete by the date at which the extension to the Contract expires;
 - ii. the extension is a proportionate response to the circumstances;
 - iii. a break in service/supply would be detrimental to service provision;
 - iv. the value of the extension does not constitute more than 10% of the Contract value* for services and supply Contracts and 15% of the Contract value* for works Contracts; and,
 - v. the extension to the Contract is not more than three calendar months.

14. Waiving Procurement Rules

- 14.1 Any decision to be taken contrary to these Procurement Rules where the financial implications do not exceed £75,000 for Services and Supply contracts or £100,000 for works contracts AND the total contract value⁸ (including the value of any proposed or actual extensions) does not exceed the applicable EU Threshold must be formally recorded by the relevant Head of Service on the Scheme of Delegation recording system. All supporting documentation should be retained and made available to the Procurement Service.
- 14.2 Save as is provided for in paragraph 14.1, decisions taken contrary to these Procurement Rules must be taken by the Cabinet Member responsible as portfolio holder for Procurement.
- 14.3 For avoidance of doubt, the definition of a waiver to these Procurement Rules incorporates decisions concerning the direct award of Contracts, including extensions to existing Contracts where

⁸ Contract value shall be determined in accordance with paragraph 5 of these Procurement Rules.

the period and/or value of extension was not provided for in the original Tender Process.

- 14.4 For the sake of completeness, it should be noted that it is not possible to seek a waiver of the requirements of the Regulations or the Directive in relation to the procurement activity, but such conduct must be referred to the Head of Procurement and notified to the Cabinet Member responsible as portfolio holder for Procurement.
- 14.5 Save as is provided for in paragraph 14.1, decisions taken contrary to these Procurement Rules shall be reported to Cabinet on a monthly basis.

15. Paper Tenders

- 15.1 Any paper tenders received must be treated as per the Requirements for Tender Opening Procedures guidance set out as Appendix B to these rules.
- 15.2 Paper Tender Opening Procedures will be arranged by exception at the request of the lead officer for the given procurement process on notice of paper submission(s) under exceptional circumstances.

APPENDIX A: SCHEDULE 3: SOCIAL AND OTHER SPECIFIC SERVICES

Common Procurement Vocabulary (CPV) Code	Description
75200000-8; 75231200-6; 75231240-8; 79611000-0; 79622000-0 (Supply services of domestic help personnel); 79624000-4 (Supply services of nursing personnel) and 79625000-1 (Supply services of medical personnel) from 85000000-9 to 85323000-9; 98133100-5, 98133000-4; 98200000-5; 98500000-8 (Private households with employed persons) and 98513000-2 to 98514000-9 (Manpower services for households, Agency staff services for households, Clerical staff services for households, Temporary staff for households, Home-help services and Domestic services)	Health, social and related services
85321000-5 and 85322000-2, 75000000-6 (Administration, defence and social security services), 75121000-0, 75122000-7, 75124000-1; from 79995000-5 to 79995200-7; from 80000000-4 Education and training services to 80660000-8; from 92000000-1 to 92700000-8; 79950000-8 (Exhibition, fair and congress organisation services), 79951000-5 (Seminar organisation services), 79952000-2 (Event services), 79952100-3 (Cultural event organisation services), 79953000-9 (Festival organisation services), 79954000-6 (Party organisation services), 79955000-3 (Fashion shows organisation services), 79956000-0 (Fair and exhibition organisation services)	Administrative social, educational, healthcare and cultural services
75300000-9	Compulsory social security services
75310000-2, 75311000-9, 75312000-6, 75313000-3, 75313100-4, 75314000-0, 75320000-5, 75330000-8, 75340000-1	Benefit services
98000000-3; 98120000-0; 98132000-7; 98133110-8 and 98130000-3	Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services
98131000-0	Religious services
55100000-1 to 55410000-7; 55521000-8 to 55521200-0 (55521000-8 Catering services for private households, 55521100-9 Meals-on-wheels services, 55521200-0 Meal delivery service) 55520000-1 Catering services, 55522000-5 Catering services for transport enterprises, 55523000-2 Catering services for other enterprises or other institutions, 55524000-9 School catering services	Hotel and restaurant services

Common Procurement Vocabulary (CPV) Code	Description
55510000-8 Canteen services, 55511000-5 Canteen and other restricted-clientele cafeteria services, 55512000-2 Canteen management services, 55523100-3 School-meal services	
79100000-5 to 79140000-7; 75231100-5;	Legal services, to the extent not excluded by regulation 10(1)(d)
75100000-7 to 75120000-3; 75123000-4; 75125000-8 to 75131000-3	Other administrative services and government services
75200000-8 to 75231000-4	Provision of services to the community
75231210-9 to 75231230-5; 75240000-0 to 75252000-7; 794300000-7; 98113100-9	Prison related services, public security and rescue services to the extent not excluded by regulation 10(1)(h)
79700000-1 to 79721000-4 (Investigation and security services, Security services, Alarm-monitoring services, Guard services, Surveillance services, Tracing system services, Absconder-tracing services, Patrol services, Identification badge release services, Investigation services and Detective agency services) 79722000-1 (Graphology services), 79723000-8 (Waste analysis services)	Investigation and security services
98900000-2 (Services provided by extra-territorial organisations and bodies) and 98910000-5 (Services specific to international organisations and bodies)	International services
64000000-6 (Postal and telecommunications services), 64100000-7 (Post and courier services), 64110000-0 (Postal services), 64111000-7 (Postal services related to newspapers and periodicals), 64112000-4 (Postal services related to letters), 64113000-1 (Postal services related to parcels), 64114000-8 (Post office counter services), 64115000-5 (Mailbox rental), 64116000-2 (Post-restante services), 64122000-7 (Internal office mail and messenger services)	Postal services
50116510-9 (Tyre-remoulding services), 71550000-8 (Blacksmith services)	Miscellaneous services

APPENDIX B: REQUIREMENTS FOR TENDER OPENING PROCEDURES

The following requirements are Tender Opening procedures applying to hardcopy tenders. The council must accept hardcopy paper tender returns to electronic tender processes in appropriate circumstances. Tenders received in the electronic tendering system shall be unlocked by the Procurement Service.

Pre-opening Procedure

1. All tender return dates should be set for a Tuesday or Friday at 10:00am to align with Tender Opening Procedures.
2. Hardcopy paper tenders received at a County Hall reception must be promptly receipted, have the time and date received recorded on the envelope/package and be placed in the tender box.
3. Tenderers are to be instructed by the appropriate instructions included within the published tender pack to ensure that the external surfaces of the envelope/package identifies the name and reference number of the tender process concerned only.

During the Opening Procedure

4. Tender Opening Procedures shall take place at County Hall every Tuesday and Friday at 14:30 in the presence of one officer from the Procurement Service and one officer from a separate service.
5. The officers shall ensure that the external surfaces of the envelope/package do not contain any franking thereon, or bear any marks, sign or reference which might indicate who the tenderer is. Any such tender that does not meet this requirement may be disqualified.
6. The officers shall open the tenders and record the name of the organisation that submitted the tender as well as the date and time the tender was received.
7. In the circumstance where the envelope/package does not identify the tender process it belongs to, the officers undertaking the opening procedure are required to open the tender and identify the tender process concerned. The officers will record their actions and apply the information identified at paragraph 3 onto the external surface of the tender, ensure it is properly sealed, and replace in the tender box.

Post Opening Procedure

8. A record of all hardcopy paper tenders received against electronic tender processes will be maintained by the Procurement Service.
9. A record of the collection of all hardcopy paper tenders following the Tender Opening procedure by the responsible officer will be maintained by the Procurement Service. This shall include the name of the responsible officer, the details of the tender recorded in paragraph 6, the date and time of collection.

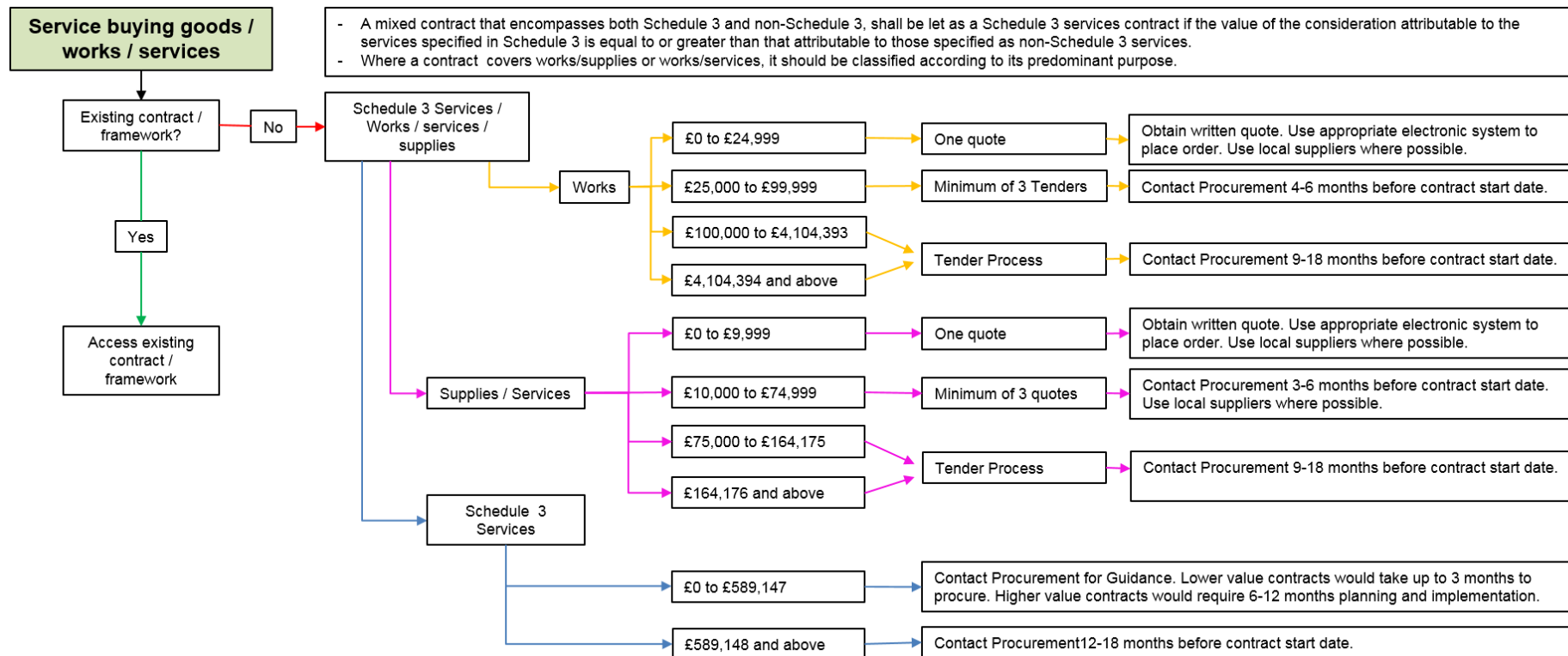
Other Situations

10. Where the Head of Procurement has consented to a tender process conducted wholly independently of the electronic tendering system special provisions will need to be made to ensure the volume of paper tenders received can be opened at a Tender Opening Procedure.

APPENDIX C – REQUIREMENTS RELATING TO THE USE OF PQQS

TYPE OF PROCUREMENT	VALUE	PQQ Permitted	If using a PQQ - Standard Gov't PQQ and guidance issued under Reg 107 applies
Services/supply	£0 to £24,999	✘	N/A
	£25,000 to £164,175	✘	N/A
	£164,176 and above	✓	✓
Works	£0 to £24,999	✘	N/A
	£25,000 to £164,175	✘	N/A
	£164,176 to £4,104,393	✓	✘ but can choose to apply if you so wish
	£4,104,394 and above	✓	✓
Schedule 3	£0 to £24,999	✘	N/A
	£25,000 to £164,175	✘	N/A
	£164,176 to £589,147	✓	✘ but can choose to apply if you so wish
	£589,148 and above	✓	✓

APPENDIX D: GUIDE TO PROCUREMENT PROCEDURES



Meeting of the Full Council
Meeting to be held on Thursday, 21 July 2016

Report submitted by: Head of Legal and Democratic Services

Part B

Electoral Division affected:
None;

Report of the Cabinet (Part B)
(Appendix 'A' refers)

Contact for further information:
Josh Mynott, Tel: (01772) 534580, Democratic Services Manager,
josh.mynott@lancashire.gov.uk

Executive Summary

The report of Cabinet from its meeting on 9 June 2016

Recommendation

That the report of the Cabinet as now presented be noted.

Local Government (Access to Information) Act 1985
List of Background Papers

Paper	Date	Contact/Tel
Agenda and Minutes of cabinet	9 June 2016	Josh Mynott 01772 534580

Reason for inclusion in Part II, if appropriate

N/A

Meeting of the Full Council 21 July 2016

Report of the Cabinet meeting on 9 June 2016

The agenda and minutes of the meetings may be viewed on the County Council's website at the following link:

<http://council.lancashire.gov.uk/mgCommitteeDetails.aspx?ID=122>

Preston Bus Station – Project Update

Cabinet received a report setting out detailed proposals, the combined outcomes of which will result in the regeneration of Preston Bus Station and Multi Storey Car Park as a public services hub.

Cabinet resolved that:

- i. the proposals, as set out in the report, which will repair and refurbish Preston Bus Station and Multi Storey Car Park, primarily as a public service facility focusing on bus and coach transportation, a Youth Zone for the young people of Preston and South Ribble, pedestrian safety, highway improvements, car parking and the creation of accessible and useable public open space within the heart of Preston City Centre be approved.
- ii. the additional contribution of £925,000 for the Preston Youth Zone from the existing allocation for the delivery of Youth Zones across the county be approved.
- iii. the County Council be authorised to enter into a Lease Agreement with its delivery partner in respect of the occupation and operation of the Youth Zone on terms to be agreed by the Head of Service for Estates and the Director of Legal and Democratic Service.

Cuerden Strategic Site Development

(Part II report as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972)

Cabinet received a report setting out proposals in relation to the Cuerden Strategic Site Development.

Cabinet resolved that the recommendation set out in the report, now presented, be approved.

Meeting of the Full Council
Meeting to be held on Thursday, 21 July 2016

Report submitted by: Head of Legal and Democratic Services

Part B

Electoral Division affected:
(All Divisions);

Report of the Overview and Scrutiny Committees
(Annexes 1 and 2 refer)

Contact for further information:
Samantha Parker, Tel: (01772) 538221, Legal and Democratic Services,
sam.parker@lancashire.gov.uk

Executive Summary

The most recent cycle of meetings of the Overview and Scrutiny Committees took place in the period May to June 2016.

The reports of the committees are attached as Annexes 1 and 2 as follows:

Annex 1 – Health Scrutiny Committee
Annex 2 – Scrutiny Committee

There have been no meetings of the Education Scrutiny Committee and the Children's Services Scrutiny Committee during this period.

Copies of the agenda and reports considered by the committees, together with minutes of the relevant meeting may be viewed on the County Council's web site at the following link:

<http://council.lancashire.gov.uk/mgListCommittees.aspx?bcr=1>

Officers specified in each report can also be contacted for further information.

The Executive Scrutiny Committee met on 10 May and 7 June 2016 to consider all reports considered by Cabinet and Key Decisions by individual cabinet members.

Recommendation

That the report of the Overview and Scrutiny Committee, as now presented, be noted.

**Local Government (Access to Information) Act 1985
List of Background Papers**

Paper	Date	Contact/Tel
Agenda and minutes:		Samantha Parker/Legal and Democratic Services 01772 538221
Health Scrutiny Committee	24 May and 14 June 2016	
Scrutiny Committee	13 May 2016	
Executive Scrutiny Committee	10 May and 7 June 2016	

Reason for inclusion in Part II, if appropriate

N/A

Meeting of the Full Council – 21 July 2016

Report on the Health Scrutiny Committee meetings on 24 May and 14 June 2016

Chair: County Councillor Steven Holgate

The agenda and minutes of the meeting may be viewed on the County Council's web site via the following link:

[Health Scrutiny Committee](#)

24 May 2016

Recruitment Issues - Lancashire Teaching Hospitals Trust

At the Health Scrutiny Committee meeting on the 26 April 2016 held to discuss the temporary closure of the Emergency Department at Chorley Hospital, it had been agreed that further scrutiny of the key issues should take place and in particular that the challenges around recruitment would be discussed in further detail.

Information was presented to the Committee from:

- Health Education North West
- MP for Chorley
- Medacs Healthcare
- NHS Improvement

The Committee resolved that:

- i. The contributions of the presenters be noted.
- ii. Data on the impact to the neighbouring A&E departments be requested.
- iii. An update from North West Ambulance Service on the impact to their services and the role of the additional ambulance support from the private providers be sought.
- iv. Members from the Clinical Commissioning Group be invited to attend the next meeting of the Health Scrutiny Committee.
- v. The Chair to obtain the evidence referred to in the presentation from Lindsay Hoyle MP.

14 June 2016

Lancashire Teaching Hospitals Trust - temporary closure of Chorley A&E

Further to the meetings held on the 26 April and 24 May 2016, this third meeting focussed on the long term sustainability of health services within the county and discussed how the Clinical Commissioning Group and partners would design, consult and deliver new models of care.

Information was presented to the Committee from:

- Protect Chorley Hospital against cuts and privatisation campaign
- Healthier Lancashire and South Cumbria Change Programme
- Chorley, South Ribble and Greater Preston Clinical Commissioning Group

The Committee resolved that:

- i. Information presented to the Committee be noted.
- ii. The Chorley, South Ribble and Greater Preston Clinical Commissioning Group provide further updates to this Committee on the process of change in relation to 'Our Health, Our Care'.
- iii. Healthier Lancashire provide an update report on the Case for Change to the 26 July 2016 meeting of this Committee.
- iv. The Health Scrutiny Steering Group produce a draft report on the findings from the information received at the last three Health Scrutiny Committee meetings with recommendations to be ratified at the 26 July 2016 meeting of this Committee.
- v. That the Chair of the Committee be requested to write to neighbouring Trusts to ascertain the number of people with 'PR' postcodes now attending their A&E departments compared to the same period last year.

Meeting of the Full Council – 21 July 2016

Report on the Scrutiny Committee meetings held on 13 May 2016

Chair: County Councillor Bill Winlow

The agenda and minutes of the meeting may be viewed on the County Council's web site at the following link:

[Scrutiny Committee](#)

13 May 2016

EP&R and FRM Joint Report Winter Floods 2015

A report was presented outlining the County Council's involvement in response and recovery and the subsequent flood risk management activities, to the wide-spread floods in December 2015. The report included reference to the engagement with affected parties, organisational parties, central government and the Environment Agency and the longer-term measures that might be required to improve flood risk management.

The Committee resolved that:

- i. The response to date be noted and the Committee's advice on further appropriate response activities be expressed.
- ii. A progress update report be brought back to the Scrutiny Committee in October.
- iii. The Committee's thanks and appreciation to all those involved in response to the flooding be recorded.

Bus Service Replacement Proposal for Sabden

The Committee considered the request made by five Members of the County Council that the decision made by the Cabinet Member for Highways and Transport on 11 May 2016 on the Bus Service Replacement Proposal for Sabden, be "Called In".

The Committee resolved that:

The Cabinet Member for Highways and Transport's decision on 11 May 2016 in relation to the Bus Service Replacement Proposal for Sabden should not be called in.

Meeting of the Full Council
Meeting to be held on Thursday, 21 July 2016

Report submitted by: Head of Legal and Democratic Services

Part A

Electoral Division affected:
None

Report of the Audit and Governance Committee
(Annex 1 refers)

Contact for further information:
Cath Rawcliffe, Tel: 01772 533380, Committee Support Officer,
cath.rawcliffe@lancashire.gov.uk

Executive Summary

The report of the Audit and Governance Committee from its meeting held on 30 June 2016 is attached at Annex 1.

Copies of the agenda reports considered by the committee are available to view via the following link:

<http://council.lancashire.gov.uk/ieListMeetings.aspx?CommitteeId=728>

Councillors can also contact the officers specified in each report for further information about each item.

Recommendation

The Full Council is asked to note the report of the Audit and Governance Committee, as now presented.

Local Government (Access to Information) Act 1985
List of Background Papers

Paper	Date	Contact/Tel
Agenda & Minutes of the Audit & Governance Committee	30 June 2016	Cath Rawcliffe Legal & Democratic Services, Tel 01772 533380

Reason for inclusion in Part II, if appropriate
N/A

Annex 1

Report of the Audit and Governance Committee - Matters for Information

The following matters were considered by the Audit and Governance Committee at its meeting on 30 June 2016:

Part I matters

1. Treasury Management Report

A report was presented on the treasury management activities of the county council throughout 2015/16.

The Committee was reminded that since the publication of the agenda papers, the UK had voted to leave the European Union. The Committee was advised that as Treasury Management activity is influenced by the economic situation and anticipated movement in interest rates, the decision to leave the EU was likely to have a substantial impact on the Council's Treasury Management Strategy.

Decision Taken: That the review of treasury management activities for 2015/16 to date as shown at appendix A to the report now presented, be noted.

2. The Council's Code of Corporate Governance

The Committee considered a report on amendments to the Council's Code of Corporate Governance for the County Council and the implementation of an Action Plan for 2015/16.

The Code had been updated to reflect the seven new core principles and included sources of evidence as previously shown. The Committee was asked to consider any amendments or revisions it wished to make to the Code before submission to Full Council for approval. The Committee was also asked to consider the outcomes of the Action Plan agreed for 2015/16 that was based on the previous Code.

Decision Taken:

The Committee agreed:

- (i) That the revised Code of Corporate Governance as shown at Appendix B to the report, be recommended to Full Council for approval. (A separate report is set out elsewhere on the agenda)
- (ii) That the updates set out in the report on the implementation of the Action Plan for 2015/16 be noted.

3. Council's Annual Governance Statement 2015/16

The Committee considered the draft Annual Governance Statement (AGS) presented at Appendix 'A' to the report for inclusion in the Council's Annual Statement of Accounts for 2015/16.

Officers responded to concerns raised by the Members in relation to a number of areas highlighted in the report including the ability to access timely and accurate information and data from the council's Liquid Logic systems. It was reported that steps were being taken to address the areas of concern and that a report on the proposed improvements would be presented to the next meeting of the committee on 26 September, 2016.

Decision Taken:

- (i) That the draft Annual Governance Statement for 2015/16 presented at Appendix 'A' to the report be approved for inclusion in the County Council's Statement of Accounts for 2015/16.
- (ii) That a report on the proposed improvements to the Liquid Logic systems be presented to the next meeting of the Committee on 26 September 2016.

4. Risk and Opportunity Register

The Committee considered a report which provided an update on the Risk and Opportunity framework and an updated Risk and Opportunity Register.

Decision Taken: That the revised framework and the updated Risk and Opportunity Register as shown at Appendix 'A' to the report be noted.

5. Response of the Audit and Governance Committee Chair to Grant Thornton's request for information to support its compliance with International Standards on Auditing

The committee considered a response to Grant Thornton's request for information to support its compliance with international standards on auditing and quality control.

Decision Taken: That the response to Grant Thornton's request for information as shown at Appendix 'B' to the report, be approved and signed by the Chair of the committee.

6. Waste Facilities Valuation - Business Decision Analysis

The Committee considered a report on the evaluation of 'property, plant and equipment' in respect of the waste plants owned by the Council.

It was agreed that a further update would be presented to the next meeting of the committee on 26 September, 2016.

Decision Taken:

- (i) That the report be noted.
- (ii) That a further update be presented to the next meeting of the committee on 26 September, 2016.

7. External Audit - Update report June 2016

A report was presented on the progress to date on the 2015/16 Audit Plan for the Council and set out the accounting and auditing issues relevant to the 2015/16 financial statements and their preparations.

The report included details on recent publications which it was felt could be helpful to the Committee in discharging its responsibilities.

Decision Taken: That the report be noted.

**Meeting of the Full Council
Meeting to be held on 21 July 2016**

Report submitted by: Head of Legal and Democratic Services

Part B

Electoral Division affected:
(All Divisions);

Report of the Pension Fund Committee
(Annex 1 refers)

Contact for further information:
Dave Gorman, (01772) 534261, Legal and Democratic Services,
dave.gorman@lancashire.gov.uk

Executive Summary

The report of the Pension Fund Committee from its meeting on 10 June 2016 is attached at Annex 1.

Copies of the agenda and reports considered by the Committee are available on the County Council's website [here](#).

Members can also contact the officers specified in each report for further information about each item.

Recommendation

That the report of the Pension Fund Committee, now presented, be noted.

**Local Government (Access to Information) Act 1985
List of Background Papers**

Paper	Date	Contact/Tel
Agenda and Minutes of the Pension Fund Committee	10 June 2016	Dave Gorman, (01772) 334732

Reason for inclusion in Part II, if appropriate

N/A

Report of the Pension Fund Committee - Matters for Information

The following matters were considered by the Pension Fund Committee at its meeting on 10 June 2016.

Part I

5. External Audit - Lancashire County Pension Fund Audit Plan 2015/16

The Committee considered a report setting out details of the Lancashire County Pension Fund's Audit Plan for 2015/16.

Decision taken:

That:

- (i) The External Audit Plan for Lancashire County Pension Fund 2015/16, and the associated fees, as set out in the report, now presented, be noted;
- (ii) Karen Murray be thanked for her attendance.

Part II

7. Local Pensions Partnership Limited - Progress Report

(Exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act, 1972. It was considered that in all the circumstances of the case the public interest in maintaining the exemption outweighed the public interest in disclosing the information)

The Committee considered a report setting out progress on the Local Pensions Partnership, which had gone live on 8 April 2016.

Decision taken:

That:

- (i) The report, now presented, be noted;
- (ii) The submission to the DCLG due by 15 July 2016 be circulated to members of the Committee at the earliest opportunity;
- (iii) A briefing session on the implications of the pooling process be held in due course.

8. Fund Performance Report

(Exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act, 1972. It was considered that in all the circumstances of the case the public interest in maintaining the exemption outweighed the public interest in disclosing the information).

The Committee considered a presentation and report on the performance of the Fund as at 31 March 2016.

Decision taken:

That the report, now presented, be noted.

9. Investment Panel Report

(Exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act, 1972. It was considered that in all the circumstances of the case the public interest in maintaining the exemption outweighed the public interest in disclosing the information).

The Committee considered a report from the Investment Panel setting out the work of the Panel since the last meeting of the Committee.

Decision taken:

That the report, now presented, be noted.

10. Appointment of Interim Independent Advisor

(Exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act, 1972. It was considered that in all the circumstances of the case the public interest in maintaining the exemption outweighed the public interest in disclosing the information).

The Committee considered a report setting out proposals for the appointment of an interim independent advisor.

Decision taken:

That:

- (i) The proposed interim appointment of Elizabeth Carey for a period of up to six months on the same terms as the current independent advisors to the Fund be approved;
- (ii) Aoifinn Devitt be congratulated on her temporary appointment as Chief Investment Officer of the Chicago Policemen's Annuity and Benefit Fund.

11. Lancashire County Pension Fund Revised Governance Policy Statement

The Committee considered a report setting out details of a revised Governance Policy Statement for the Lancashire County Pension Fund.

Decision taken:

That the updated Lancashire County Pension Fund Governance Policy Statement, as set out at Appendix 'A' to the report, now presented, be approved.

12. Lancashire County Pension Fund - Annual Governance Statement 2015/16

The Committee considered a report setting out details of the Annual Governance Statement 2015/16 for the Lancashire County Pension Fund.

Decision taken:

That the Annual Governance Statement 2015/16 for the Lancashire County Pension Fund be approved for signature by the Chair and the Interim Head of Fund.

13. Tracing Missing Members Procedure

The Committee considered a report setting out proposals for amendments to the Lancashire County Pension's Fund existing Tracing Missing Members Procedure.

Decision taken:

That:

- (i) A missing member tracing exercise be undertaken every three years in line with the actuarial valuation process, as set out in the report, now presented;
- (ii) Such an exercise be carried out by the most cost effective means possible;
- (iii) The Fund's Communications Policy Statement be amended to reflect this additional communications exercise;
- (iv) The Interim Head of Fund be authorised to amend the Communications Policy Statement as set out in (iii) above.

14. Your Pension Service - Annual Administration Report 2015/16

The Committee considered a report setting out details of the Your Pension Service Annual Administration Report for 2015/16.

Decision taken:

That the Your Pension Service - Annual Administration Report 2015/16 as set out at Appendix 'A' to the report, now presented, be noted.

15. Local Pensions Partnership Limited - Non Executive Director Pay Policy

The Committee considered a report setting out a Non-Executive Director Pay Policy for the Local Pensions Partnership.

Decision taken:

That the Pay Policy for the Local Pensions Partnership, together with the proposed principle in relation to payments to the Shareholder Non-Executive Directors, as set out in the report, now presented, be approved.

16. Internal Audit Service Annual Report 2015/16 and Plan 2016/17

The Committee considered a report setting out details of the Internal Audit Service's Annual Report 2015/16 and Plan 2016/17 for the Lancashire County Pension Fund.

Decision taken:

That:

- (i) The Internal Audit Service annual report for 2015/16 as set out in the report, now presented, be noted;
- (ii) The outline annual workplan for 2016/17 be approved;
- (iii) That the Head of Service, Internal Audit, and colleagues be thanked for the work undertaken.

17. Framework for the 2016 Valuation - Employer Responses to Consultation

The Committee considered a report setting out details of the employer responses to the consultation on the framework for the 2016 Valuation.

Decision taken:

That:

- (i) The results of consultation with employers on the valuation framework, as set out in the report, now presented, be noted;
- (ii) The process proposed for managing the valuation process and engaging with employers throughout the process, as set out in the report, now presented, be noted;
- (iii) Existing, and any future, Multi-Academy Trusts with more than one school within the Fund, be offered a common contribution rate;
- (iv) The Fund's current policy in relation to not allowing reductions in contribution rates for employers who continue to have a deficit within the Fund, be continued.

18. Responsible Investment

The Committee considered a report setting out the quarterly update on Responsible Investment matters.

Decision taken:

That the report, now presented, be noted.

19. Feedback on Attendance at Training and Conferences

The Committee considered a report setting out details of attendance by Committee Members at recent conferences, events and external training sessions.

Decision taken:

That the report and feedback, now presented, be noted.

Meeting of the Full Council
Meeting to be held on Thursday, 21 July 2016

Report submitted by: Head of Legal and Democratic Services

Part B

Electoral Division affected:
None

Report of the Urgency Committee

Contact for further information:
Chris Mather, Tel: 01772 533559, Democratic Services Manager,
chris.mather@lancashire.gov.uk

Executive Summary

This report sets out two decisions of the Chief Executive under the Council's Urgent Business Procedure on behalf of the Urgency Committee.

Recommendation

The Full Council is asked to note the report.

Background and Advice

Since the last meeting of the Full Council, the Chief Executive has, in consultation with the chair and deputy chair of the Urgency Committee, taken the following decisions under the Urgent Business Procedure on behalf of the Urgency Committee:

- **Lancashire County Pension Fund Committee – Terms of Reference and Scheme of Delegation Arrangements**

Approval has been given to transfer a number of functions from the Pension Fund Committee and the Interim Head of the Pension Fund to the Full Council and to the Director of Governance, Finance and Public Services in consultation with the Director of Financial Resources. This decision will ensure that the Council has a clear separation of its employer and administering authority roles.

It was necessary to use the Urgent Business Procedure to enable the revised decision making arrangements to take immediate effect.

- Amendment to the Members' Allowance Scheme

Approval has been given to the inclusion of the positions of Council Chairman and Vice-Chairman in the Member's Allowance Scheme list of Special Responsibility Allowances. This decision was supported by the Council's Independent Remuneration Panel as it will achieve a saving on private transport hire costs. It will also improve transparency as currently there is no requirement to publish details of the allowances paid to the Council's Chairman and Vice-Chairman. In future the allowances will be published annually as part of the Members' Allowance Scheme requirements.

It was necessary to use the Urgent Business Procedure to enable the decision to take immediate effect.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

No significant risks have been identified.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Tel
Items of Urgent Business	27 May and 9 June 2016	Chris Mather 01772 533559

Reason for inclusion in Part II, if appropriate

N/A

Meeting of the Full Council
Meeting to be held on Thursday, 21 July 2016

Report submitted by: Head of Legal & Democratic Services

Part B

Electoral Division affected:
None

Report of the Lancashire Combined Fire Authority (CFA)

Contact for further information:

Diane Brooks, 01772 866720, Lancashire Fire & Rescue Service

dianebrooks@lancsfireandrescue.org.uk

Executive Summary

Annex 1 sets out a summary report of the Lancashire Combined Fire Authority following its meeting on the 20 June 2016. This is now presented to the Full Council for information.

Recommendation

That the report of the Lancashire Combined Fire Authority, as now presented, be noted.

Local Government (Access to Information) Act 1985
List of Background Papers

Paper	Date	Contact/Tel
Proceedings of the Lancashire Combined Fire Authority	20 June 2016	Diane Brooks, Lancashire Fire & Rescue Service 01772 866720

Reason for inclusion in Part II, if appropriate

N/A

**REPORT OF THE LANCASHIRE COMBINED FIRE AUTHORITY (CFA)
20 JUNE 2016**

1. COMBINED FIRE AUTHORITY ANNUAL GENERAL MEETING (AGM)

The meeting held 20 June was the Authority's AGM and Members appointed County Councillors F De Molfetta and M Parkinson as Chairman and Vice-Chairman of the Authority respectively for 2016/17.

2. WELCOME TO NEW MEMBERS

The Chairman welcomed new Members, County Councillors Vivien Taylor and Ron Shewan from Lancashire County Council. He thanked the continuing Members for their contributions to the work of the Authority over the previous year and looked forward to another successful year working together for Lancashire residents.

3. SAFETY, HEALTH AND ENVIRONMENT ANNUAL REVIEW

The Authority considered the Safety, Health and Environment Annual Review Report for Lancashire Fire & Rescue Service covering the period 1 April 2015 to 31 March 2016. As the body with ultimate responsibility for staff health, safety and environmental compliance it is important that all CFA Members are aware of performance in this respect. The report therefore provided a summary of key actions, overall progress and outturn performance in respect of accidents and near misses and carbon emissions, together with a look forward.

The report summarised the arrangements in place to deliver the Service's Health and Safety Policy and provided a summary of health, safety and environment performance data. It included the reporting on occupational safety, health and environmental issues that had arisen during the period 1 April 2015 – 31 March 2016.

The Director of People and Development was pleased to report that the Service had again seen a very positive year in terms of overall safety, health and environment performance. The number of accidents to LFRS staff was the second lowest on record with 60 events being reported of which only 23 resulted in lost time accidents. LFRS continued to deliver projects to reduce its carbon emissions. The health and safety and environment management systems would continue to be developed and this was supported by external reviews that advocated robust policies, systems and a positive culture were in place within the Service.

4. FIRE PROTECTION REPORTS

A report detailing prosecutions in respect of fire safety management failures and arson related incidents within the period 1 April 2016 to 31 May 2016 was provided. At the request of County Councillor O'Toole, Group Manager Tony Crook presented Members with an overview of the work undertaken in respect of rented accommodation which set out the various types of premises, the lead organisation responsible for inspection and

enforcement action, the legislative framework, reasons for and types of inspection, actions undertaken to reduce risk and a summary of two prosecution examples.

5. COMMUNITY FIRE SAFETY REPORTS

This report included information for the 2 Unitary and 12 District Authorities relating to Community Fire Safety Initiatives and Fires and Incidents of particular interest.

As part of the report Area Manager Simon Fryer gave a presentation to Members on the different operational strategies taken for recent waste fires at Fleetwood and Walton Summit to provide Members with an insight into the dilemmas faced by the Service.

FRANK DE MOLFETTA
Chairman

LFRS
Fulwood

Meeting of the Full Council – 21 July 2016

Agenda Part C - Notices of Motion submitted under Procedural Standing Order 14.2.1(a) and 14.2.1(b)

1. By County Councillor Julie Gibson

Lancashire County Council condemns racism, xenophobia and hate crimes unequivocally. Racism, xenophobia and hate crimes of any description have no place in our country or our county.

We are proud to live in a diverse and tolerant society and note that a lot of good work is taking place across Lancashire:

- The Lancashire Strategic Hate Crime Group is devising the hate crime strategy and there is a dedicated hate crime unit within Lancashire Constabulary.
- There are excellent examples of partnership working to tackle racism, xenophobia and hate crime between the County Council, Borough and District Councils, Lancashire Constabulary, the Office of the PCC and the voluntary, community and faith sectors across the County.

This Council wants to assure all of the County's residents and visitors that they are valued members of our society and as elected representatives of the diverse communities across Lancashire, Full Council is asked to place on record that the County Council will not tolerate hate crime, racism or xenophobia in its communities.

This Council resolves to:

- Display the opening paragraph in this motion prominently on the county council website and that a press release is issued to publicise the motion.
- Ask the scrutiny committee to review the current measures taken to counter racism, xenophobia, and hate crime and report back to Full Council.
- Support and work with people who are victims of hate crime, racism or xenophobia to feel confident in coming forward and reporting it.

2. By County Councillor Sue Pryn

This council notes that:

1. Last year many young people (aged 16 or over) left the care of Lancashire County Council and began the difficult transition out of care and into adulthood.
2. A 2016 report by The Children's Society found that when care leavers move into independent accommodation they begin to manage their own budget fully for the first time. The report showed that care leavers can find this extremely challenging and with no family to support them, are falling into debt and financial difficulty.
3. Research from The Centre for Social Justice found that over half (57%) of young people leaving care have difficulty managing their money and end up in debt when leaving care.

4. In 'Keep on Caring: Supporting Young People from Care to Independence', July 2016, HM Government highlighted how local authorities can also support care leavers financially in lots of different ways, including introducing exemptions from council tax.
5. The Children and Social Work Bill, currently progressing through parliament, introducing a new 'Care Leavers Covenant' underpinned by statutory duties to make sure local authorities set out clearly the entitlements for care leavers including housing, jobs and healthcare.
6. The local authority has a duty of care to care leavers.

This council believes that:

1. To ensure that the transition from care to adult life is as smooth as possible, and to mitigate the chances of care leavers falling into debt as they begin to manage their own finances, they should be exempt from paying council tax until they are 25.
2. Care leavers are a particularly vulnerable group for council tax debt.

This council, therefore, resolves:

1. To write to the Minister of State for Children and Families, urging him to introduce legislation for a national exemption for care leavers from council tax up to the age of 25; specifically to introduce the following amendment to the Local Government Finance Act;
 - (1) In section 6, paragraph 4, after "or 4 (students etc.)" insert "or 11 (*Care Leavers*),"
 - In schedule 1, following Paragraph 10 insert new paragraph 11:

Care Leavers

11.

- (1) A person shall be disregarded for the purposes of discount on a particular day if—
 - (a) on the day he is a former relevant child within the meaning given by section 23C(1) of the Children Act 1989, and
 - (b) They are under the age of 25.

And also, in view of this, to amend the appropriate sections of the Children and Social Bill currently passing through Parliament, particularly looking at Chapter 2 Other Provision Relating to Children In England, *Combined Authority Functions Relating to Children*.

2. To write to all leaders of District councils across Lancashire County to make them aware of this issue and the opportunities to lobby central government as the above legislation is introduced. Future discussions could look at the opportunity through the use of partnership working and existing powers for further support to care leavers up to the age of 25.