



## Report to Cabinet

**Date:** 15<sup>th</sup> February 2022.

**Title:** Withdrawal from the LHC Joint Committee

**Cabinet Member(s):** Cllr John Chilver, Cllr Nick Naylor

**Contact officer:** John Reed, Director of Property and Assets

**Ward(s) affected:** Non specific

**Recommendations:**

**That Cabinet:**

- 1a. Agrees that Buckinghamshire Council , as one of the ten Constituent Authorities of the LHC Joint Committee, withdraws from the LHC Joint Committee, resulting in its potential disbandment in December 2022 at the earliest, thereby foregoing the £10,000 pa income from the LHC Joint Committee.
- 1b. Agrees that if it decides not to withdraw (by not agreeing with 1a) Buckinghamshire Council is willing to act as lead authority of the LHC Joint Committee should it continue, until that role becomes vacant.
2. That Buckinghamshire Council notifies LHC of this decision by 25<sup>th</sup> February 2022 at the latest.
3. Agrees that Buckinghamshire Council will consider in a future meeting, the options for continued participation in the new LHC corporate entity when it is known in March 2022.

## **Reason for recommendation:**

### **1. Decision 1a**

1.1 The Council has been a Constituent Authority of LHC – formerly the London Housing Consortium – since May 2006 and has nominated Elected Members to serve on the LHC Joint Committee.

1.2 The rationale for joining the LHC Joint Committee was to work collaboratively with other London Councils to improve the procurement of housing and construction products and services. The London Housing Consortium was set up for that purpose in 1966. Up until recently LHC was one of the few providers of these services.

1.3 In addition, the Council benefitted annually from a share of LHC's surpluses.

1.4 Much has changed in recent years. The Council no longer relies on LHC for procurement solutions, preferring instead to use its a mixture of: its own procurement capability; main contractor services; alternative procurement consortia sometimes including LHC.

1.5 As an organisation, LHC itself has expanded its operations widely throughout Great Britain servicing around 300 public sector organisations. LHC surpluses are now shared widely across the country resulting in a reduced annual return for the Council.

1.6 As a Constituent Member of LHC the council receives an annual community benefit fund from LHC surpluses (conditional on attendances by Elected Members at LHC meetings) of £10,000. It is envisaged that in a new LHC corporate entity such funds would continue to be available for former LHC Constituent Authorities.

1.7 The expansion of LHC's services has also added risk to the LHC Joint Committee, particularly relating to staffing and employer liability, arising from:

- The widespread geographic nature of LHC operations
- The widespread geographic location of LHC staff and offices
- The rapid growth of the LHC workforce

1.8 Members of the LHC Joint Committee recognised that the dynamic nature of LHC as a commercial enterprise is also at odds with the democratic and regulatory processes that are required by local authorities. It is felt that LHC would benefit from having more autonomy around:

- Governance and organisational design
- Job design and reward
- Future provision of pension

- Financial modelling and risk management.

1.9 Consequently, the members of the LHC Joint Committee asked for a review of LHC governance arrangements which concluded that the LHC Joint Committee be disbanded, and a new corporate entity established by LHC.

## **2.0 Decision 1b**

2.1 In the event that the current lead authority, LB Hillingdon, withdraws from the Joint Committee and that two or more Constituent Authorities wish the Joint Committee to continue, one of them must act as lead authority.

The requirements for the lead authority are set out in the LHC Constitution and are extracted below:

### *2.2. Lead Borough Arrangements*

*2.3 Hillingdon shall act as lead borough for and on behalf of all the Authorities in relation to:*

- (i) the employment of the staff of LHC,*
- (ii) insurance,*
- (iii) financial oversight,*
- (iv) the entering*
  - iv) the entering into of legal relations where LHC would enter such relations were it a competent legal entity,*
- (v) Secretary to the Joint Committee.*

*2.4 The LHC Operations Group shall be employed by Hillingdon and the terms and conditions of staff within the LHC Operations Group shall be those used by Hillingdon.*

*2.5 Hillingdon shall effect insurance for all the insurable risks of LHC including employer's, public, professional and motor contingency liability insurance together with all other risks which it considers appropriate to cover, in order to protect the liabilities and assets of the Authorities.*

*2.6 Hillingdon shall enter all contractual and other legal relations for LHC and shall defend or settle any proceedings issued for liabilities arising from the activities of LHC.*

*2.7 The method of calculating the reimbursement of the costs of performing lead borough functions shall be on such basis as the Joint Committee shall from time to time approve.*

*Calculations relating to payments of reimbursement of costs to lead boroughs shall be presented to the Joint Committee for information.”*

2.8 In that eventuality, staff TUPE arrangements and novation of contracts shall be executed with transfer from LB Hillingdon to the new lead authority.

**2.9 Please note that if Hillingdon decides not to withdraw, the Joint Committee will continue (provided that at least one other Constituent Authority also decides not to withdraw).**

### **3.0 Decision 3**

3.1 The governance review leading to this proposal has identified new governance arrangements which are more appropriate to the current and future operations of LHC.

3.2 In establishing a new corporate entity LHC will be seeking participation from client organisations and other interested parties from across Great Britain, from local authorities, housing associations and other relevant sectors.

3.3 We anticipate a high degree of interest in organisations wishing to participate in order to:

- Influence the future direction of LHC including the identification of new products and services which could be beneficial to client organisations.
- Increase learning of technical know-how for use by clients carrying out their own procurement programmes, including such themes as:
  - Net zero buildings and decarbonisation of heat
  - Modern methods of construction
  - Building safety
- Increase learning of procurement practices to deliver greater social value.
- Access to LHC grant funding for community investment schemes

3.4 The design of the new LHC corporate entity will look to continue to offer grant funding to those Authorities continuing to participate in LHC.

3.5 LHC would encourage current Constituent Authorities to consider participation in the new corporate entity.

### **4. Risks and financial implications**

4.1 It is anticipated that there should be a ‘clean break’ disbandment of the Joint Committee with all LHC’s assets and liabilities transferred from the Joint Committee to the new LHC corporate entity.

4.2 As the lead authority, LB Hillingdon will work with LHC to ensure effective TUPE transfer of staff and novation of contracts from LB Hillingdon to the new LHC corporate entity.

4.3 There will be no financial burden accruing to the Council from the disbandment of the Joint Committee. All costs shall be borne by LHC and LB Hillingdon as agreed between the two parties.

4.4 As a member of the Joint Committee the Council currently qualifies for a grant from LHC of up to £10,000 per annum (£15,000 for the lead authority) based on attendance at LHC Board meetings. The Council would lose the ability to claim our £10,000 grant for our membership of the Joint Committee. This will create a small funding pressure which will need to be managed within existing service budgets

4.5 It is anticipated in the new LHC corporate entity that such grants will be offered to client organisations participating in the governance of the new organisation.

#### 4.6 Risks table and mitigating actions

| Risk   | Result   | Mitigating action  |
|--|--|--|
| A single Constituent Authority does not agree with Decision 1a (withdraw from the Joint Committee)   | LHC cannot continue as a Joint Committee with one member. The Joint Committee is disbanded.  | 1.Ensure each Elected Member of the LHC Joint Committee is fully briefed on the reasons for the decision.<br>2. LHC to hold 1to1 meetings with Council if required |
| Two or more Constituent Authorities do not agree with Decision 1a  | The LHC Joint Committee can continue but one of those authorities must act as lead authority. If not, the Joint Committee is disbanded.  | As above.<br>3. Ensure Council is fully aware of the lead authority responsibilities.  |
| Hillingdon does not agree with Decision 1a (withdraw from the Joint Committee)   | The LHC Joint Committee can continue, provided that at least one other Authority decides not to withdraw. Otherwise, the Joint Committee is disbanded  | As in risk 1 above.  |
| One or more Constituent Authorities do not make a decision before the next meeting in March 2022.  | A proposal will be put to the Joint Committee in March 2022 that LHC proceeds with the implementation of the 'Preferred Option' as planned until a decision is received from all ten Constituent Authorities | As in risk 1 above.<br>3. Continue to investigate alternative forms of legal entity for LHC.   |
| All Constituent Authorities agree to withdraw from the Joint Committee but fail to make a decision in March 2022 on the exact form of new LHC corporate entity | A decision on the exact form of new LHC corporate entity must be made in March 2022.   | As in risk 1 above.<br>.   |

## **5. Other options considered**

5.1 Do nothing – This is not the recommended option for the reasons set out in this report.

5.2 Agree to withdraw – This is the recommended option for the reasons set out in the report.

5.3 Not to withdraw – This is not the recommendation for the reasons set out in this report.

## **6. Legal and financial implications**

6.1 The Council would lose the ability to claim our £10,000 grant for our membership of the Joint Committee. This will create a small funding pressure which will need to be managed within existing service budgets .

## **7. Corporate implications**

7.1 Corporate Finance has reviewed this report and concurs with the financial implications set out above.

## **8. Local councillors & community boards consultation & views**

8.1 A consultation meeting was held on 13th October 2021 between the Chairman, Vice Chairman and senior officers of LHC with senior officers and Elected Members of LB Hillingdon.

## **9. Communication, engagement & further consultation**

9.1 Engagement with LHC to formalise the new arrangements will be necessary. LHC will need to make its own arrangements for communication. NO further internal communication or external communication beyond normal is anticipated as a result of this decision.

## **10. Next steps and review**

10.1 This is set out in the report.

## **11. Background papers**

11.1 LHC Governance Review board paper from the meeting of the LHC Joint Committee on 3rd December 2021.



## **12. Your questions and views (for key decisions)**

12.1 If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider please inform the democratic services team. This can be done by telephone [01296 382343] or email [[democracy@buckinghamshire.gov.uk](mailto:democracy@buckinghamshire.gov.uk)]

