

Report for: Cabinet 8th February 2022

Title: Approval for Haringey to withdraw from the LHC

Report authorised by : Fiona Alderman Head of Legal and Governance/David Joyce Director for Housing Planning and Regeneration/Barry Phelps Head of Procurement

Lead Officer: Ayshe Simsek – Democratic Services and Scrutiny Manager

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** Non Key

1. Describe the issue under consideration

- 1.1 The LHC is a not-for-profit central purchasing body, who establish compliant frameworks across England, Scotland (on behalf of the Scottish Procurement Alliance) and Wales (on behalf of the Welsh Procurement Alliance). LHC's frameworks are available to all publicly funded contracting authorities to procure works, goods and services to construct, refurbish and maintain social housing, schools and public buildings.
- 1.2 The Council's expenditure through the LHC frameworks in 2019/20 was £123k and in 2020/21 was £125k.
- 1.3 The LHC was originally known as the London Housing Consortium (LHC) and changed its name to LHC as it began to expand to include local authorities, outside London, into its membership in 2014. It was formally established under the Local Government Act 1972 in 2012 as a Joint Committee comprising of the London Borough of Haringey along with nine other participating authorities.
- 1.4 Cllr John Bevan, Cabinet Member for Planning, Licensing and Housing Services is the Chair of the LHC and Cllr Gideon Bull is a Haringey non-Executive nominated member. There are representatives from other London boroughs, and other boroughs outside London on the Joint Committee. The Joint Committee discharges the executive functions of the participating Consortium Local Authorities. Members of the Joint Committee have been appointed by the Cabinets of those authorities. The lead borough for this Joint Committee for over 17 years is Hillingdon Borough and is responsible for governance, financial oversight, HR responsibility for 72 staff, and insuring the LHC.
- 1.5 In June 2021, the LHC agreed to take forward a governance review as it was recognised that the Consortium had grown significantly and had various regional representations.

On December 3rd 2021, the review findings concluded that the dynamic nature of LHC as a commercial enterprise was at odds with the democratic and regulatory processes that are required by local authorities. It was 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.

- 1.6 The report recommended disbandment of the LHC Joint Committee and this was voted on and agreed by all the Elected Members of the LHC Joint Committee, which included Haringey.
- 1.7 In agreeing the disbanding of the LHC Joint Committee, the Committee further agreed to consider, at the next LHC meeting in March, options for continued participation in a new LHC corporate entity.
- 1.8 The 10 constituent boroughs are now required to seek respective Cabinet approval to withdraw from the LHC Joint Committee and in the case of its disbandment to agree to consider at a future meeting, options for the Council's continued participation in a new LHC corporate entity.
- 1.9 The LHC need this formal decision by 25th February 2022 (recommendation 3.1 and 3.2 below) in order to present the collective result to the Elected Members at their next meeting of the LHC Joint Committee in March 2022. The LHC can then begin the process of disbanding the Joint Committee for completion by December 2022 and for the new entity to begin operation in 2023.
- 1.10 At this stage the LHC do not require an indication of the Council's role in any future corporate entity, only a decision to agree to consider and respond to proposed options compiled by the LHC, at a future meeting of Cabinet. These options can only be compiled after March 2022, once all constituent boroughs have made their decisions at their February Cabinet meetings, and after such options are considered by the Elected Members at their March 2022 Joint Committee.
- 1.11 Under the current governance arrangements the LHC Joint Committee directly oversee the work of the LHC Management Team.
- 1.12 During the time between April 2022 and December 2022 (when the Joint Committee will be disbanded) the LHC Joint Committee have agreed to establish a new LHC Board of Directors. This will have delegated authority from the Joint Committee to oversee the work of the LHC Management Team. The Chair of the LHC Joint Committee, Cllr Bevan, will sit on this new Board. Recruitment for these board members is currently underway.

2. Cabinet Member Introduction [Cabinet Member for Planning, Licensing and Housing Services]

This report takes forward the decision of the LHC Joint Committee meeting to disband the Joint Committee and the Cabinet will consider a further report in the coming months for the corporate entity. As Chair of the LHC , I will be participating in the LHC Board of directors and will be in close contact on discussions relating to the new corporate entity and will be advocating continued partnership working and maintaining the principle of collaborative working.

3. Recommendations

It is recommended that the Cabinet:

- 3.1 Agrees that Haringey , 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.
- 3.2 That Haringey notifies LHC of this decision by 25th February 2022 at the latest.
- 3.3 Agrees that Haringey will consider at a future meeting, the options for continued participation in the new LHC corporate entity when the options are known.

4. Reasons for decision

- 4.1 Recommendation 3.1 takes forward the decision reached by all 10 constituent boroughs, including Haringey, on the 3rd of December that the Joint Committee be disbanded and a new corporate entity explored.
- 4.2 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.
- 4.3 Recommendation 3.3 indicates that LHC would encourage current Constituent Authorities to consider participation in the new corporate entity. LHC officers indicated there would still be potential, with this decision to explore partnership related working with neighbouring boroughs and maintain the principle of collaborative working.

5. Alternative options considered

- 5.1 To continue as a Joint Committee which would require two or more Constituent Authorities with one of them acting as lead authority. This was not considered as Haringey voted to withdraw from the Joint Committee and new corporate entity be explored.

- 5.2 Please note in the unlikely event Hillingdon decides not to withdraw, the Joint Committee will continue (provided that at least one other Constituent Authority also decides not to withdraw).

6. Background

- 6.1 In February 2012 the Haringey Cabinet approved a recommendation to remain in the LHC Joint Committee
- 6.2 The rationale for joining the LHC Joint Committee was to work collaboratively with other London Councils to provide procurement of housing and construction products and services.
- 6.3 As an organisation, LHC itself has expanded its operations widely throughout Great Britain servicing around 300 public sector organisations and employing around 72 staff.
- 6.4 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
- 6.5 Members of the LHC Joint Committee recognised that the dynamic nature of LHC as an 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.
- 6.6 Consequently, in June 2021 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.
- 6.7 The governance review leading to this proposal will identify options for new governance arrangements, which are more appropriate to the current and future operations of LHC.
- 6.8 LHC would encourage current Constituent Authorities to consider participation in the new corporate entity.

Risks and financial implications

- 6.9 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.

- 6.10 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.
- 6.11 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. The LHC will acquire insurance policies, to ensure there is no personal liabilities for Joint Committee members.
- 6.12 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. This will no longer be available if the Council withdraws from the Joint Committee.
- 6.13 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.

Risks table and mitigating actions

Risk	Result	Mitigating action
A single Constituent Authority does not agree with Decision 3.1 (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. 2. LHC to hold 1to1 meetings with Council if required
Two or more Constituent Authorities do not agree with Decision 3.1	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. 3. Ensure Council is fully aware of the lead authority responsibilities.
Hillingdon does not agree with Decision 3.1 (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. 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. .

7. Contribution to strategic outcomes

- 7.1 Housing - a safe, stable and affordable home for everyone, whatever their circumstances - LHC has built a strong position as a highly respected procurement consortium for housing.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance

- 8.1 As set out above in paragraph 6.11 there are no direct costs of withdrawal from the Joint Committee as all costs will be borne by LHC and LB Hillingdon as agreed between the two parties. However withdrawal will mean the Council will not be able to benefit from the £10,000 per annum grant nor receive grants for community investment schemes.
- 8.2 The financial implications of joining a new LHC corporate identity will be dealt with in the relevant Cabinet report at that time.

Procurement

- 8.3 The LHC is a purchasing body which has grown from a single organisation supporting London Authorities to an organisation made up of several sub-entities throughout Great Britain. It is understandable the LHC wish to put in place a more effective corporate structure to support its current and future strategic and operational objectives.
- 8.4 The Council can continue to access LHC frameworks whilst any corporate restructure is being put in place. Expenditure through the LHC frameworks in 2019/20 was £123k and £125k in 2020/21.
- 8.5 Strategic Procurement supports the recommendation in 3.1 allowing the Council to monitor the proposals put forward for the new entity and consider the opportunities provided by proposed new arrangement.

Legal

- 8.6 The Head of Legal and Governance has been consulted on the contents of this report.
- 8.7 Having previously operated as an unincorporated association, in 2012 the LHC was formally established as a Joint Committee pursuant to section 101(5) of the Local Government Act 1972 (as amended) to effect the governance and management of LHC, comprising the London Borough of Haringey jointly with the

other participating local authorities. The Cabinet agreed to the establishment of the Joint Committee and Haringey's continued membership.

- 8.8 Articles 10.02 (c) and (d) of the Constitution set out the position regarding Joint arrangements and specifically provide at paragraph (c) that:
- 8.9 The Leader, or the Cabinet with the Leader's agreement, may establish Joint arrangements with one or more local authorities or other organisations to exercise functions that are executive functions or to advise the Cabinet. Such arrangements may involve the appointment of Joint Committees or boards with these other local authorities or bodies.
- 8.10 Given that the Cabinet agreed to establish this Joint Committee in 2012, it is appropriate that the decision on whether to withdraw from the LHC Joint Committee should also be a Cabinet decision and there is no legal reason why this decision cannot be taken.
- 8.11 Each Member of the LHC will have to take its own decision on whether to withdraw from the LHC Joint Committee, which would lead to its disbandment if less than two members want it to continue.
- 8.12 The current Joint Committee arrangements are pursuant to Section 101(5) of the Local Government Act 1972, and means that Members will be collectively responsible, with the other members of the Joint Committee, for decision making and in this way they will avoid any personal liability arising. Therefore, any known liabilities would pass to the council.

Equality

- 8.13 There are no specific equalities implications to the proposals made in this report.

Appendix

Appendix 1 - LHC Constitution

Local Government (Access to Information) Act 1985

London Housing Consortium - Cabinet Report - 7th February 2012

Appointment of Cabinet Committees 2020/21