

Cabinet 9 February 2022	 TOWER HAMLETS
Report of: Ann Sutcliffe, Corporate Director, Place	Classification: Unrestricted
Withdrawal from the London Housing Consortium Joint Committee	

Lead Member	Councillor Danny Hassell, Lead Member for Housing
Originating Officer(s)	Karen Swift, Director of Housing
Wards affected	All
Key Decision?	No
Reason for Key Decision	This report has been reviewed as not meeting the Key Decision criteria.
Forward Plan Notice Published	10 January 2022
Strategic Plan Priority / Outcome	A dynamic, outcomes-based council using digital innovation and partnership working to respond to the changing needs of our borough

Executive Summary

To seek Cabinet approval for Tower Hamlets to withdraw from the London Housing Consortium (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.

Recommendations:

The Cabinet is recommended to:

1. Agree that Tower Hamlets, 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.
2. Agree that if it decides not to withdraw (by not agreeing with 1) Tower Hamlets is willing to act as lead authority of the LHC Joint Committee should it continue, and that role becomes vacant.
3. That Tower Hamlets notifies LHC of this decision by 25th February 2022 at the latest.

4. Agrees that Tower Hamlets will consider in a future meeting, the options for continued participation in the new LHC corporate entity when it is known in March 2022.

1 REASONS FOR THE DECISIONS

- 1.1 The LHC has advised the Council that The Elected Members of the LHC Joint Committee agreed on Friday 3rd December 2021 to disband the LHC Joint Committee in favour of creating a new form of corporate entity for LHC.

2 ALTERNATIVE OPTIONS

- 2.1 Not to withdraw from the LHC. The implications of this option are outlined in section 3 of this report.

3 DETAILS OF THE REPORT

Withdrawal from LHC Joint Committee

- 3.1 The Council has been a Constituent Authority of LHC – formerly the London Housing Consortium – since October 1984 and has nominated Elected Members to serve on the LHC Joint Committee.
- 3.2 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.
- 3.3 In addition, the Council benefitted annually from a share of LHC's surpluses.
- 3.4 Much has changed in recent years. The Council no longer relies on LHC for procurement solutions, preferring instead to use it's a mixture of: its own procurement capability; main contractor services; alternative procurement consortia sometimes including LHC.
- 3.5 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.
- 3.6 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.

- 3.7 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
- 3.8 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.
- 3.9 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.

Implications of a decision not to withdraw from LHC Joint Committee

- 3.10 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.
- 3.11 The requirements for the lead authority are set out in the LHC Constitution and are extracted below:

“10. Lead Borough Arrangements

10.1 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.*

10.2 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.

10.3 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.

10.4 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.

10.5 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.”

- 3.12 In that eventuality, staff TUPE arrangements and novation of contracts shall be executed with transfer from LB Hillingdon to the new lead authority.
- 3.13 If Hillingdon decides not to withdraw, the Joint Committee will continue (provided that at least one other Constituent Authority also decides not to withdraw).

Continued participation in LHC

- 3.14 The governance review leading to this proposal has identified new governance arrangements which are more appropriate to the current and future operations of LHC.
- 3.15 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.
- 3.16 LHC anticipates 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
- 3.17 Tower Hamlets has benefitted recently from receipt of grant funding for community investment schemes totalling £20,000. The design of the new LHC corporate entity will look to continue to offer grant funding to those Authorities continuing to participate in LHC.
- 3.18 LHC would encourage current Constituent Authorities to consider participation in the new corporate entity.

4 EQUALITIES IMPLICATIONS

4.1 None.

5 OTHER STATUTORY IMPLICATIONS

5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:

- Best Value Implications,
- Consultations,
- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.
- Data Protection / Privacy Impact Assessment.

Consultation

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

Risks

5.3 Identified risks are summarised in the table below:

5.4

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. 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. 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. 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.

6 COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 This report is seeking approval for LB Tower Hamlets as one of the ten Constituent Authorities withdraws from the LHC Joint Committee, resulting in its potential disbandment in December 2022 at the earliest.
- 6.2 The withdrawal and its disbandment will have no material financial implications for the Council. Disbandment of the Joint Committee will result in all LHC's assets and liabilities transferring to the new LHC Corporate entity. As the lead Authority, LB Hillingdon will work with LHC to ensure effective TUPE transfer of staff and novation of contracts to the new entity. Any financial burden accruing from the disbandment will be borne by LHC and LB Hillingdon.
- 6.3 As a member of the Joint Committee the Council currently qualifies for a grant from the LHC of up to £10k per annum based on attendance at LHC Board

meetings. This grant will no longer be available if the Council withdraws from the Joint Committee.

- 6.4 If LB Tower Hamlets joined the new LHC Corporate entity and participated in its governance, then it would be eligible for any grants offered to client organisations.

7 COMMENTS OF LEGAL SERVICES

- 7.1 The Council has the legal power to undertake any of the recommendations referred to in this report.
- 7.2 The LHC is a joint committee for the purposes of the Local Government Act 1972. The Council's constitution delegates to the LHC some of the Council's legal functions. Therefore, in the event that the Council elects to withdraw membership, the constitution and delegations will need to be altered accordingly and in line with the constitutional rules.
- 7.3 In the event that the Council elects to continue with its membership, the constitution will not need to be changed.
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Linked Reports, Appendices and Background Documents

Linked Report

- None.

Appendices

- None.

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- None.

Officer contact details for documents:

N/A