

Shadow Authority for Cumberland Council

To: The Shadow Council Leader and Members of Shadow Executive

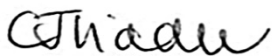
Agenda

Dear Member

SHADOW EXECUTIVE

A meeting of the Shadow Executive will be held as follows:

Date: Monday, 27 March 2023
Time 10.30 am,
Place: The Bainbridge Room, The Copeland Centre, Catherine Street, Whitehaven, CA28 7SJ



Clare Liddle
Chief Legal Officer (Monitoring Officer)
Shadow Authority for Cumberland Council

Enquiries and requests for supporting papers to:

Rose Blaney, Democratic Services
01946 598454 democratic.services@cumberland.gov.uk

MEMBERSHIP

Cllr L Brown (Vice-Chair)
Cllr B Cannon
Cllr M Fryer (Chair)
Cllr M Harris
Dr B Kelly

Cllr E Lynch
Cllr A Quilter
Cllr D Rollo
Cllr C Southward
Cllr E Williamson (Vice-Chair)

ACCESS TO INFORMATION

Agenda and Reports

Copies of the agenda and Part A reports are available for members of the public to inspect prior to the meeting. Copies will also be available at the meeting.

The agenda and Part A reports are also available on the Cumberland Council website
(<https://cumberland.moderngov.co.uk/mgCommitteeDetails.aspx?ID=140>).

A G E N D A

PART A – ITEMS CONSIDERED IN THE PRESENCE OF THE PRESS AND PUBLIC

1. Apologies for absence

To receive apologies for absence.

2. Declarations of Interest

To receive declarations by Members and/or co-optees of disclosable pecuniary interest, interests, other registrable interest and any other interests in respect of items on the agenda.

3. Exclusion of Press and Public

To consider whether the press and public should be excluded from the meeting during consideration of any items of business on the agenda.

4. Minutes of the Previous Meeting

To receive the minutes of the previous meeting held on 16 February 2023.
(Pages 9 - 18)

5. Public Participation

To receive any questions or representations which have been received from members of the public.

(note any member of the public who wishes to ask a question or make representations at the meeting should apply to do so no later than two working days before the day of the meeting. Information on how to apply can be obtained from the person named on the front of the agenda).

6. LGR Programme Update

To consider a report from the LGR Programme Director.

(Pages 19 - 34)

7. Community Panels

(Key Decision)

To note the outcomes of the work of the Communities and Localism Working Group and approve the Community Panels arrangements. The decision will also include details on the formula for the allocation of funds to the Community Panels.

(Pages 35 - 48)

8. Inter Authority Agreement for Hosted Services

(Key Decision)

To approve entering into an Inter-Authority Agreement with Westmorland and Furness in respect of hosted services.

(Pages 49 - 122)

9. Cumbria Holding Ltd Shareholder Agreement

The purpose of the report is to recommend entering into a shareholders agreement with Westmorland and Furness Council and CCH (the "Shareholders Agreement") which sets out the terms upon which the company and its subsidiaries and the two Councils, as shareholders, shall exercise their rights in relation to the Group.

(Pages 123 - 128)

10. Agreement for the provision of Services to Cumbria Fire and Rescue Authority

(Key Decision)

The purpose of the report is to recommend entering into two agreements with Westmorland and Furness Council and the Cumbria Commissioner Fire and Rescue Authority (CCFRA) for the provision of services for a temporary period from 1 April 2023 by Cumberland Council (the Council) and Westmorland and Furness Council to CCFRA and by CCFRA to Cumberland Council and Westmorland and Furness Council.

(Pages 129 - 134)

11. Framework Collaboration Agreement and Delegation to Statutory Officers

The purpose of the report is to recommend entering into an agreement with Westmorland and Furness Council (the "Framework Collaboration Agreement") under which the parties will collaborate in the management of the Framework Agreements taken over from Cumbria County Council and to delegate authority to the Monitoring Officer to finalise the agreement; and

To delegate to each of the s 151 Officer, the Chief Executive and the Monitoring Officer [in consultation with the relevant Portfolio Holder] for the period up to the 1 April 2023 to take such steps, including incurring of any expenditure if necessary and entering into any agreements with Westmorland and Furness Council in relation to future collaboration, as may be required to ensure that the Council and Westmorland and Furness Council can deliver economic, efficient, effective, safe and legal services from 1 April 2023.

(Pages 135 - 142)

12. Agreement of Nomination for the Services to HM Coroner

(Key Decision)

An agreement to deal with the nomination of the relevant authority for the purposes of the Coroner.

(Pages 143 - 146)

13. Cumberland Constitution - Executive Arrangements

The purpose of this report is to seek approval for those parts of the Cumberland Constitution that are Executive functions.

(Pages 147 - 178)

14. Charter Trustees for the City of Carlisle

The Cumbria (Structural Changes) Order 2022 and draft Supplementary Provisions Order set out the main provisions governing the administrative reorganisation of the seven sovereign Cumbrian Councils and, in particular, establish Charter Trustees for the City of Carlisle. This report seeks delegated authority to agree occupation and use of Cumberland Council buildings and resources by the Charter Trustees.

(Pages 179 - 182)

15. Agreement under section 16 of Local Government Public Involvement in Health Act 2009

(Key Decisions)

For the Executive to agree to delegate the approval of the Section 16 Agreement detailing the relevant successor authorities for the assets, liabilities, property and reserves of the sovereign councils on vesting day to the Monitoring Officer following consultation with the relevant members.

(Pages 183 - 190)

16. Inter Authority Agreement for Waste Services

3

(Key Decision)

Not for publication by virtue of Paragraph 3 of Schedule 12A to the Local Government Act 1972 at it contains information relating to the financial and business affairs of any particular person (including the authority holding that information).

To approve entering into an Inter-Authority Agreement with Westmorland and Furness.

(Pages 191 - 244)

17. Section 24 Agreement - The Wave Maryport

3

(Key Decision)

Not for publication by virtue of Paragraph 3 of Schedule 12A to the Local Government Act 1972 at it contains information relating to the financial and business affairs of any particular person (including the authority holding that information).

For the Executive to consider specific consents under Section 24 direction and general consent, in relation to The Wave, Maryport.

(Pages 245 - 294)

18. Section 24 Agreement - Workington Innovation Centre Award of Contract for Stages 4-6 of the Project

3

(Key Decision)

Not for publication by virtue of Paragraph 3 of Schedule 12A to the Local Government Act 1972 at it contains information relating to the financial and business affairs of any particular person (including the authority holding that information).

For the Executive to award a contract for the Stage 4-6 works of the Project.

(Pages 295 - 312)

19. Section 24 Agreement - Workington Innovation Centre Award of Contract for the operation of the centre

3

(Key Decision)

Not for publication by virtue of Paragraph 3 of Schedule 12A to the Local

Government Act 1972 at it contains information relating to the financial and business affairs of any particular person (including the authority holding that information).

For the Executive to award the contract for the operation of the Centre.
(Pages 313 - 406)

20. Section 24 Agreement - Carlisle Station Gateway Project
3

Not for publication by virtue of Paragraph 3 of Schedule 12A to the Local Government Act 1972 at it contains information relating to the financial and business affairs of any particular person (including the authority holding that information).

To hear an update regarding the Carlisle Station Project, regarding the requested renegotiation.
(Pages 407 - 438)

21. Carlisle Southern Link Road Construction Contract
3

(Key Decision)

Not for publication by virtue of Paragraph 3 of Schedule 12A to the Local Government Act 1972 at it contains information relating to the financial and business affairs of any particular person (including the authority holding that information).

For the Executive to enter into a construction contract and to sign the Grant Determination Agreement with Homes England for the Carlisle Southern Link Road.
(Pages 439 - 462)

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CUMBERLAND SHADOW EXECUTIVE

Minutes of the Shadow Executive held in Flensburg Room, Civic Centre, Carlisle, CA3 8QG on Thursday, 16 February 2023 at 10.30 am

Members

Councillor Mark Fryer (Chair)

Councillor Lisa Brown (Vice-Chair) and

Councillor Emma Williamson (Vice-Chair)

Councillor Barbara Cannon

Councillor Martin Harris

Councillor Bob Kelly

Councillor Elaine Lynch

Councillor Anne Quilter

Councillor Denise Rollo

Councillor Christopher Southward

Also in attendance

A Seekings, Chief Executive

C Nicholson, Section 151 Officer

C Liddle, Monitoring Officer

74. Call in

Date of Publication: 20 February 2023

Call in Period Ends: 27 February 2023 at 1700hours

75. Exemption from Call-in

The Leader announced that the Chair of the Overview and Scrutiny Committee had, on 8 February 2023 agreed that the following items be exempt from call in:

6. Budget 2023-24 and Medium Term Financial Plan General Fund Revenue and Capital

If a call-in was received, the call-in procedures would overlap the Shadow Council meeting on 1 March 2023 when the Council will consider the matter. Any delay caused by the call-in process would prejudice the Council's interests.

76. Apologies for absence

No apologies for absence were submitted.

77. Declarations of Interest

There were no declarations of interest submitted.

78. Exclusion of Press and Public

RESOLVED – It was agreed that the items in Part A be dealt with in public and the items in private be dealt with in Part B when the public and press are excluded.

79. Minutes of the Previous Meeting

RESOLVED – That the minutes of the meeting held on 20 December 2022 be agreed as a correct record.

80. Public Participation

There were no public questions or representations submitted.

81. Budget 2023-24 and Medium Term Financial Plan General Fund Revenue and Capital

(Key Decision)

****This item was exempted from Call in by the Chair of the Overview and Scrutiny Committee on 8 February 2023.****

Subject:

The Financial Planning and Assets Portfolio Holder presented the first Revenue Budget and Medium Term Financial Plan for Cumberland Council which identified the key factors influencing and informing the development of the Council's financial plans for 2023-24, along with the ongoing impact of those plans into the medium term.

Included in the within the budget report was the latest estimated funding position, service and corporate budget pressures, financial risks and challenges influencing the development of Cumberland Council's financial plans.

Proposals for 2023-24 were based on the outcome of the Provisional Local Government Finance Settlement, released on the 19th of December. It was noted that the Settlement was for a one year period, as such financial planning over a greater timescale was necessarily predicated on assumptions.

The report also covered the issues which needed to be considered prior to the Council finalising the budget and setting the Council Tax for 2023-24.

In moving the recommendations in the report, the Financial Planning and Assets Portfolio Holder gave her thanks to the Officers from the sovereign authorities who had worked to develop the budget. The Leader seconded the proposals.

As part of the consultation process, the matter had been considered by the Shadow Authority Scrutiny Committee the previous day. Copies of notes of that meeting had been circulated to the Executive Councillors. The Vice Chair of the Scrutiny Committee, Councillor Pratt, was in attendance, he gave an overview of the Committee's discussion and rationale for the submitted recommendations.

The Leader welcomed the Scrutiny Committee's response to the consultation on the budget.

Alternative Options:

The Council had a legal duty to set a balanced budget each year and the proposals fulfilled the requirement.

DECISION

That the Shadow Executive:

- 1) Approved the 2023-24 Budget for recommendation to Cumberland Shadow Authority for approval and adoption including: -
 - The General Fund net revenue budget for 2023-24 of £303,278,387 and Directorate service budgets for 2023-24 as outlined in Appendix A
 - Council Tax Harmonisation for Cumberland Council using the weighted average (alternative notional amount) from 1 April 2023
 - An average Band D Council Tax in 2023-24 of £1,730.84 for Cumberland Council which represents an increase of 4.99% on the average Council Tax levied across the Cumberland area (2.99% increase in core council tax and 2% Adult Social Care precept)
 - The capital programme as set out in Appendix C
 - The detailed Fees and Charges as set out in Appendix D
 - Notes the S25 statement of the Chief Finance Officer as set out in Section 16 and the risk-based assessment of the level of General Fund Balances
 - Notes the consultation feedback on the budget as set out in Appendix E
- 2) Made the following recommendations to the Shadow Council to ensure that the revenue and capital budget and all associated financial policies would be delivered in a safe and legal manner from 1st April 2023 while ensuring flexibility to manage the overall budget in the year
 - To delegate authority to the Section 151 Officer, in consultation with, the Portfolio Holder for Financial Planning and Assets, to amend the capital programme for 2023-24 going forward so that it accurately reflects issues such as slippage / acceleration on current year projects that would need to be added to the programme
 - To delegate authority to the Section 151 Officer to finalise and agree all outstanding financial policies and strategies to ensure that the Council had the policies in place by 1 April 2023.
 - To delegate authority to the Section 151 Officer, in consultation with, the Portfolio Holder for Financial Planning and Assets to employ earmarked reserves for the purposes they were originally set up for
 - To delegate authority to the Section 151 Officer, in consultation with, the Portfolio Holder for Financial Planning and Assets to amend the Fees and Charges if required in 2023-24

- To delegate authority to the Section 151 Officer, in consultation with, the Portfolio Holder for Financial Planning and Assets to release the general contingency fund if required in the year.

Reasons for Decision

To ensure that a balanced budget is set.

82. Cumberland Schools Forum and Joint Standing Advisory Council on Religious Education (SACRE)

(Non Key Decision)

Subject:

The Lifelong Learning and Development Portfolio Holder submitted a report requesting the establishment of a Schools Forum for Cumberland in accordance with the Cumberland Schools Forum constitution and the approval of the constitution of a joint Standing Advisory Council on Religious Education ('SACRE').

The Lifelong Learning and Development Portfolio Holder moved the recommendations and the Leader seconded them.

Alternative Options:

The Executive could:

- Approve the proposed approach to establish a Cumberland Schools Forum from 1 April 2023; or
- Propose an alternative approach towards the establishment of a Cumberland Schools Forum from 1 April 2023.

DECISION:

That the Shadow Executive

- (1) Establishes the Schools Forum for Cumberland; and
- (2) Constitutes a joint SACRE in accordance with the constitution attached at Appendix 3 and appoint those listed at Appendix 4 to the report as members of the SACRE.

Reason for Decision

There was no provision in law for two or more authorities to discharge their functions jointly, for example by establishing a single joint Schools Forum with Westmorland and Furness.

Separate SACREs could be established for each of the new Local Authorities. However, this raised concerns (with SACRE's current membership) about securing requisite representation for all four committees. Some religious/denominational representatives covered the whole of Cumbria and as such, operating two SACREs would increase the call on their time. Operating two SACREs would increase the expense to the public purse, as two sets of payments would be needed for administrative support and the religious education professional adviser etc.

Establishing two SACREs would potentially hamper the work required this academic year by the Agreed Syllabus Conference to review and issue and the agreed syllabus.

83. LGR Programme Update

(Non Key Decision)

Subject:

The Senior Manager, LGR Programme submitted an update on the Programme in place to support Local Government Reorganisation in Cumbria. The report consisted of the latest Programme Dashboard presented to the Programme Board and a summary of the Day One Board report presented to the Day One Programme Board on 24 January 2023.

The Leader moved the recommendations in the report which were seconded by the Deputy Leader (Statutory)

Alternative Options:

The contents of the report were in response to a Statutory Instrument, and whilst there was a choice about how to define the Implementation Plan, and the approach to governance and budgets, the approach described was considered the most fitting to local circumstances.

DECISION

That the Shadow Executive noted the report details and key points included in Section 3 of the report.

Reasons for Decisions

To comply with The Cumbria (Structural Changes) Order 2022 to deliver a sustainable Unitary Council, and a sustainable Fire and Rescue Service, in an economic, efficient, effective, safe, legal and seamless fashion, delivering both benefits from Vesting Day and the foundation for further transformation in the future.

84. Delegated authority to approve operational policies and procedures

(Non Key Decision)

Subject:

The Leader submitted a report which requested delegated authority from the Shadow Executive to the Chief Executive to approve necessary operational policies and procedures prior to Vesting Day on 1 April 2023 in consultation with the relevant Portfolio Holder.

The Leader moved the recommendation and the Deputy Leader (Statutory) seconded them.

Alternative Options:

Given the committee time available prior to Vesting Day seeking Executive approval for all operational policies and procedures would be unworkable.

DECISION

That the Shadow Executive:

Delegated authority to the Chief Executive (in consultation with the relevant Director and Portfolio Holder) to approve operational policies and procedures for the new council prior to Vesting Day on 1 April 2023.

Reason for Decision:

The proposed delegations were in line with those set out in the Scheme of Delegation in the new Cumberland Council Constitution.

85. Section 24 - Extension of Apprenticeship Framework

(Key Decision)

Subject:

The Financial Planning and Assets Portfolio Holder submitted a report asking for the consideration of granting consent to the Cumbria County Council to extend its Apprenticeships Framework ("The Framework") for a period of one year until 31 March 2024.

In compliance with the Direction issued under section 24 of the Local Government and Public Involvement in Health Act 2007, the extension of the Framework requires the consent of both Cumberland Shadow Authority and Westmorland and Furness Shadow Authority.

The Financial Planning and Assets Portfolio Holder moved the recommendation in the report and the Deputy Leader (Statutory) seconded it.

Alternative Options:

Not to extend the Apprenticeship Framework, however, this was not recommended as it was likely that the new local authorities would not have arrangements in place to commission new apprenticeship training.

DECISION

That the Shadow Executive granted consent to Cumbria County Council to extend the Apprenticeships Framework for a period of one year from 01 April 2023 until 31 March 2024, with an indicative annual value of £4m.

Reasons for Decision:

The approach ensured that there were known services in place from Vesting Day which had been commissioned in a legally compliant manner.

The recommendation to extend current arrangements was to ensure that the new organisations had sufficient time and resource to plan and execute the delivery of apprenticeship training. For each new organisation to achieve their new strategic goals it was highly likely that activity may need to include regulated procurement exercises and internal governance processes which were subjected to set timescales, the extension gave the time to achieve this.

The setup of the Framework meant that new providers could join so that any additional training needs which may arise as a result of the inclusion of district councils could be commissioned following established processes.

86. Section 24 - Consent to Award Contract for Insurance Services

(Key Decision)

Subject:

The Financial Planning and Assets Portfolio Holder presented a report which requested the consideration of granting consent to Cumbria County Council to enter into a contractual arrangement for the provision of main insurance services to Cumberland Council for a period of three years from 01 April 2023 with the option to extend for 2 separate periods of one year.

In compliance with the Direction issued under section 24 of the Local Government and Public Involvement in Health Act 2007, the award of these contracts requires the consent of Cumberland Shadow Executive.

The outcome of the tender for the Insurance Services had been submitted as a private report at agenda item 12.

The Leader moved the recommendation and the Deputy Leader (Statutory)

Alternative Options:

Not to agree to grant consent to Cumbria County Council.

DECISION:

That the Shadow Executive granted consent to Cumbria County Council to enter into contractual arrangements for the provision of main insurance services to Cumberland Council

Reasons for Decision:

Cumberland Council would require insurances from 1 April 2023. However, the services that were insured, insurance excesses, aggregate limits and the extent of any self-insurance within the Council had been carefully considered.

Officers had worked closely with the appointed insurance broker, Marsh Ltd, to explore the insurance markets for appropriate cover and engaged initially with the interim S151 Officer and recently the Director of Finance (S151 Officer) regarding insurances to be procured.

87. Public and Press

RESOLVED – That in accordance with Section 100A(4) of the Local Government Act 1972 the Public and Press were excluded from the meeting during consideration of the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in the paragraph numbers (as indicated in brackets against the minutes) of Part 1 of Schedule 12A of the 1972 Local Government Act.

88. Section 24 - Consent to Award Contract for Insurance Services

(Public and Press excluded by virtue of Paragraph 3)

(Key Decision)

Subject:

The Financial Planning and Assets Portfolio Holder submitted the confidential outcome of the tender for Insurance Services to be considered in conjunction with agenda item 11.

Alternative Options

Not applicable

DECISION

To note the confidential outcome of the tender for Insurance Services as part of agenda item 11.

Reasons for Decision

To allow the Executive to consider all of the available information to reach a decision.

89. Award of design and build contract to construct Carlisle Southern Link Road

(Public and Press excluded by virtue of Paragraph 3)

(Non Key Decision)

Subject:

The Environment and Highways Portfolio Holder submitted a request to consider granting consent to the County Council to enter into a design and build contract for the construction of Carlisle Southern Link Road (CSLR) with the winning bidder of the works procurement process in accordance with the Direction issued under section 24 of the Local Government and Public Involvement in Health Act 2007.

The report recommendation follows a restricted tender procurement process carried out in accordance with the Public Contracts Regulations 2015. The report also sought consent to a proposed amendment, by Deed of Variation, to the Grant Determination Agreement to reflect the necessarily revised project funding and delivery milestones. In compliance with the Direction issued under section 24 of the Local Government and Public Involvement in Health Act 2007, the award of the contracts requires the consent of Cumberland Shadow Authority that Cumbria County Council enters into such contractual agreements.

The Environment and Highways Portfolio Holder moved the recommendations and the Leader seconded them.

Alternative Options:

Do not grant consent which would then mean that the award of the contract would not be able to be approved by Cumbria County Council and they would not be able to agree the amendment to the GDA. This would mean that project would be unable to proceed. Retendering the works would require a significant delay and continued funding would be unlikely.

DECISION

That the Shadow Executive:-

(1) formally granted consent in accordance with the Direction issued under section 24 of the Local Government and Public Involvement in Health Act 2007 to Cumbria County Council approving the award of a design and build contract for the construction of CSLR to the winning bidder; and

(2) consented to Cumbria County Council taking all steps necessary to approve the amendment of the GDA between the County Council, the City Council and Homes England for the construction of the CSLR.

Reason for Decision:

To ensure the progression of the Carlisle Southern Link Road project.

The meeting closed at 11.20 am

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Cumberland Shadow Executive

Date 27th March 2023

Title LGR Programme Transition

Report from: Kathryn Griffiths, Senior Manager – LGR Programme

Report Author: Kathryn Griffiths, Senior Manager – LGR Programme

Wards: All

Key Decision: No

1.0 Purpose/Summary of report

- 1.1. This report provides Members with an overview of the key achievements made in delivering the Programme in place to support Local Government Reorganisation in Cumbria.
- 1.2. The report details the activities identified to be completed post-Vesting Day, the proposed transition arrangements from the LGR Programme to Cumberland Council business as usual operations and sets out the proposed business continuity planning.
- 1.3. The report includes the latest Programme Dashboard presented to the Programme Board (21 February 2023), and a summary of the Day One Board report presented to the Day One Programme Board (21 February 2023) for information.

2.0 Recommendation

2.1 It is recommended that the Shadow Executive:-

- (1) Notes the report details and key points included in section 3 of this report.

3.0 Background and Proposals

- 3.1 Members have previously agreed the format of this report and associated appendices for providing a monthly update on the progress of the LGR Programme. It includes a summary of key progress considered by the Programme Board (Appendix 1) and the Day One Board (Appendix 2) on 21 February 2023.

3.2 As this is the final update due to be provided to the Shadow Executive prior to Vesting Day, this report will have an increased focus on:

- Key achievements delivered through the LGR Programme
- An overview of the activities identified to be completed post-Vesting Day
- The proposed transition arrangements from the LGR Programme to Cumberland Council business as usual operations
- The proposed business continuity planning arrangements for Day 1.

3.3 Key achievements delivered through the LGR Programme:

- A dedicated team of approximately 35 programme managers, project managers and project support officers were established on 1st April 2022 to deliver the LGR programme implementation. In addition, up to 300 colleagues from across the seven sovereign authorities have supported the programme in important roles such as Technical Leads and Work Package Leads, delivering key pieces of work to ensure the new councils and the Fire Service are safe and legal on Vesting Day.
- The remaining officers across all seven councils have worked incredibly hard to maintain business as usual operations to ensure no reduction in the standard of service provided to our customers.
- As at writing this report (week commencing 13th March 2023) 81.3% (1,052) of the programmes 1,294 milestones have now been completed, with 94 of the 209 Day 1 Requirements fulfilled and a further 80 nearing completion. A strong focus on accountability for delivery has been maintained by the Day 1 Board with the ongoing provision of support and challenge across all themes.
- Appointment to Chief Officer structures (including Section 151 and Monitoring Officer) have been finalised.
- Direct appointments for Assistant Directors have been confirmed and internal recruitment for the remaining vacant posts is underway through to 10th March.
- The staff allocation process is complete. All TUPE letters were issued to staff by 22nd February providing officers with certainty of their roles from 1st April 2023.
- The public consultations on the 2023/24 budget for Cumberland and for 2023/24 Council Tax for Westmorland Furness have been

completed; with full Council approval of the budgets received on 1st and 7th March 2023 respectively.

- Constitutions have been approved for both Council's and the Inter Authority Agreement and supporting Service Schedules will be finalised for approval by the Shadow Executive on 27th March.
- Planning for Services activity is well underway for all services at Assistant Director level in both Council's and will continue to year end; both Cumberland and Westmorland & Furness Senior Leadership Teams remain focused on strategic priorities up to and post vesting day.
- The Senior Responsible Officers (Chief Executive Designates and Cumbria County Council Chief Executive) are continuing to closely monitor and manage the LGR implementation reserve to ensure all expenditure relating to Local Government Reorganisation has been accounted for in the year-end accounts. Any remaining funds will be held in a reserve (accessible to both councils) hosted by Westmorland and Furness after 1st April.
- The programmes strategic risks have seen further reduction; with the approach of vesting day the likelihood of a number of risks occurring and any potential impact has reduced. Half of the strategic risks are now at the target risk level.
- New websites are in place for each new unitary council, and development of content is well-underway alongside legacy websites to ensure a consistent, seamless customer journey. Telephony solutions are in place and implementation activity is underway with "golden numbers" for each council confirmed.
- The ICT Theme has been closely monitored throughout the programme and this continues with a detailed user acceptance testing and go-live timetable in place for all systems that have been split in readiness for Day 1.
- A number of ICT systems will be split after Vesting Day, including both the Adult and Children's Social Care case management and charging systems. The systems are now subject to Plan B contingency planning to ensure a solution is in place for uninterrupted service delivery on Day 1. A resource plan is being prepared to ensure the remaining ICT projects are delivered in a timely manner after 01 April.

3.4 Activities to be completed after Vesting Day

- In addition to the disaggregation/implementation of several ICT systems, circa. 40 milestones in the Day 1 delivery plans have been identified by the programme’s Technical Leads for completion after Day 1. As set out in Table 1 below, some will be completed shortly after Vesting Day however others are longer-term milestones that will be built into the unitary delivery plans or future transformation plans. All activities have been assigned a responsible owner in the new councils or the Fire Service.

Table 1: Post-Day 1 Activities

Category	Summary of milestones
ICT system disaggregation / implementation	<ul style="list-style-type: none"> ▪ Social Care Case Management and Charging ▪ HR & Payroll ▪ Building access system ▪ Elections management system ▪ MIG and Great North Care Record ▪ NHS DBS ▪ Education Management system ▪ Strata ▪ Legal Case Management system
Not complete but workarounds in place for Day 1	<ul style="list-style-type: none"> ▪ Appointment to Director of Public Health ▪ Appointment to posts in Central Business Function of Provider Services ▪ Court appointed persons transferred appropriately ▪ Local Focus Hub email connections
Not completed but not required for Day 1	<ul style="list-style-type: none"> ▪ Recruitment in Adult Social Care ▪ Housing policies, street naming and local development schemes ▪ Various Fire policies and processes ▪ Corporate Landlord processes ▪ Collaboration services in ICT ▪ Complaints guidance
Scheduled activity after Day 1	<ul style="list-style-type: none"> ▪ Financial closure ▪ Billing Housing Revenue Account leaseholders ▪ Grant activity for Financial Year 2024/25
Transformation activity transferred to unitary councils	<ul style="list-style-type: none"> ▪ Various development and sign off milestones

3.5 Proposed transition arrangements

- It is proposed that delivery of all post-Day 1 activities will be monitored via a Joint Transition Board across both Westmorland and Furness and Cumberland councils.
- Governance arrangements for the Joint Transition Board will be agreed during March in readiness for Vesting Day.

3.6 Business Continuity Arrangements

- To ensure sufficient support is in place on Vesting Day, it has been agreed to establish strategic Service Continuity Governance arrangements in both councils.
- A high-level review of existing business continuity arrangements is underway for critical services to identify gaps and highlight any significant risks.
- A framework is in place to manage business as usual issues; utilising existing systems and processes that are known to employees and customers.
- Daily management reporting will be in place in the lead up to and after Vesting Day to ensure service continuity is closely monitored across both councils and issues are escalated as appropriate.

4.0 Consultation

4.1 The contents of this report respond to a Statutory Instrument which was the subject of consultation by the Government.

5.0 Alternative Options

5.1 The contents of this report details reporting mechanisms relating to progress of the LGR Programme, whilst there is a choice about how this might take place, the approach described is considered the most effective, efficient, and fitting to local circumstances.

6.0 Implications

Financial, Resources and Procurement

6.1 There are no direct implications associated with this report. Note that the programme has a Financial and Commercial Theme Board, and an implementation reserve of £18.92m.

Human Resources

- 6.2 There are no direct implications associated with this report. Note that the programme has Human Resources & Organisational Development Workstream as part of the Corporate & Enabling Theme.

Legal

- 6.3 There are no direct implications associated with this report. Note that the programme has a Legal & Democratic Services Workstream as part of the Corporate & Enabling Theme.

Health and Sustainability Impact Assessment

- 6.4 Have you completed a Health and Sustainability Impact Assessment? No
- 6.5 If you have not completed an Impact Assessment, please explain your reasons: There are no direct implications associated with this report. Assessments are being considered across the programme as it develops.

Equality and Diversity

- 6.6 Have you completed an Equality Impact Analysis? No
- 6.7 If you have not completed an Impact Analysis, please explain your reasons: There are no direct implications associated with this report. Assessments are being considered across the programme as it develops.

Contribution to Cumberland Council Plan Priorities

- 6.8 The programme is focused on the achievement of the programme objectives agreed by the seven sovereign councils. In relation to programme activity to deliver day one requirements for Cumberland Council and to plan for service transition to the Council this is all undertaken with due regard to the priorities within the Council Plan.

Risk Management	Consequence	Controls required
There is a need for a co-ordinated approach to reporting LGR Programme delivery progress to ensure effective and efficient management of the programme.	Failure to deliver statutory and key services on vesting day.	The programme governance arrangements described in this report assist in mitigating this risk.

Contact Officers

Kathryn Griffiths, Senior Manager - LGR, kathryn.griffiths@cumbria.gov.uk, 07384241477.

Appendices Attached to this Report

Appendix No.	Name of Appendix
1	LGR Programme Dashboard
2	Day One Board Report

Background Documents Available

None

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Programme Dashboard

Accountable Owner: John Metcalfe

Responsible Owner: Kathryn Griffiths

Board Date:

21-Feb-23

Executive Summary - Progress this Period

1. 64.4% (862) of the programmes 1,339 milestones have now been completed, with 56 of the 212 Day 1 Requirements fulfilled and a further 57 nearing completion.
2. Appointment to Chief Officer structures (including Section 151 and Monitoring Officers) have been finalised for Cumberland, Westmorland & Furness is currently recruiting externally for a Director of Public Health and is putting in place interim arrangements for Day 1 for this role and that of Director of Children's Services. Direct appointments for Assistant Directors have been confirmed and internal recruitment for the remaining vacant posts is underway through to mid March.
3. The staff allocation process is complete and the issue of TUPE letters commenced on 17th February.
4. The ICT Theme has been closely monitored throughout the programme and this continues. There is a focus on the development of the Microsoft Tenancy Agreement for each Council; the contract for the Asset Management system has been finalised; the existing County Council contract for the Highways Information Management System has been modified for implementation with a view to awarding two new contracts before Vesting Day. There is concern about the ability to complete all necessary work to split both Adult and Children's Social Care systems by 1st April. The systems are now subject to Plan B contingency planning in parallel with detailed updates being progressed. A plan is in place to manage capacity and delivery across the go-live timetable for all category 1 ICT systems.
5. Consultations on the 2023/24 budget for Cumberland and for 2023/24 Council Tax for Westmorland Furness have been completed; with full Council approval of the budgets planned for 1st and 7th March 2023 respectively.
6. Constitutions have now been approved for both Council's and the Inter Authority Agreement and supporting Service Schedules will be finalised for approval in March.
7. Planning for Services activity is underway for all services at Assistant Director level in both Council's and will continue to year end; both Cumberland and Westmorland & Furness Programme Boards remain focused on strategic priorities upto and post vesting day.
8. The Senior Responsible Officers (Chief Executive Designates and Cumbria County Council Chief Executive) are continuing to closely monitor and manager the LGR implementation reserve, challenging and prioritising the additional resource asks and it is expected that either through further challenge of the use of the reserve or additional financial support from sovereign authorities that the required resources to deliver day 1 safe and legal will be available.
8. New websites are in place for each new unitary council, and development of content is underway alongside legacy websites to ensure a consistent customer journey. Telephony solutions are in place and implementation activity is underway with "golden numbers" for each Council confirmed.
10. The programmes strategic risks have seen further reduction; with the approach of vesting day the likelihood of a number of risks occurring has reduced. Half of the strategic risks are now at the target risk level.

4-Week Look Ahead

1. The internal appointments process for Assistant Directors is to be finalised by mid March, and external recruitment commenced where necessary.
2. All staff TUPE letters will have been issued by 24/02/23.
3. Continued focus on ICT Theme, the roll out of the ICT Go-Live plan for category 1 systems including an alternate post day 1 go live plans for Adults and Children's Social Care systems.
4. Approval of 2023/23 budgets and the issue of Council Tax bills.
5. Planning for Services process to progress for all council services (at Assistant Director level).
6. Inter Authority agreements and supporting service schedules to be finalised and presented to Unitary Councils for approval.

Key Milestones

No.	Description	Planned Date	Forecast Date	Commentary
1	Customer & Digital: Rebranding of legacy websites to allow for consistent customer journey from new to legacy sites and vice versa.	31-Mar-23	31-Mar-23	Development of content for new sites ongoing.
2	Customer & Digital: Telephony Solution (Liberty Converse 'Netcall') in place to provide telephony for Customer Services on Day 1	31-Mar-23	31-Mar-23	Contractuals finalised. Implementation ongoing.
3	Strategic Commissioning: Grant activity complete	28-Feb-23	28-Feb-23	Complete. All contracts either re-procured or ready for novation to new authorities
4	Strategic Commissioning: Contract activity complete	28-Feb-23	28-Feb-23	Complete. All grants confirmed for 2023/24
5	Human Resources / Organisational Development: TUPE Staff Allocation confirmed	30-Nov-22	31-Jan-23	The staff allocation exercise has now been completed. Letters are being issued with the first batch delivered via email on 17/02/2023. It is anticipated that all letters will be issued by 24/02/2023.
6	Human Resources / Organisational Development: Appointments confirmed for externally appointed Chief Officer & Statutory Roles.	08-Feb-23	08-Feb-23	<p>The following statutory roles have been successfully recruited to in the last period:</p> <p>Cumberland Council</p> <ul style="list-style-type: none"> • Director of Adult Social Care and Housing. • Director of Children and Family Wellbeing. <p>Westmorland and Furness Council</p> <ul style="list-style-type: none"> • Director of Adult Social Care. <p>An open recruitment process is ongoing for the Director of Public Health in Westmorland and Furness and an interim solution may be required for the Director of Children's Services following an unsuccessful recruitment campaign.</p>
Page 28	Human Resources / Organisational Development: Tiers 1 - 3 appointed	20-Mar-23	20-Mar-23	Tier 3 (Assistant Director) roles have been advertised internally and interviews commenced on 17/02/23. If the internal recruitment exercise is not successful for all posts there may be a requirement to undertake some external recruitment.
	Human Resources / Organisational Development: Trade Union Facilities Time Agreement agreed for Post-Vesting Day	28-Feb-23	28-Feb-23	Discussions ongoing with Trade Unions.
9	ICT: Concerto Asset Management System: Contractuals Finalised	30-Oct-22	30-Oct-22	Complete. Contractuals finalised 21/02/2023 and implementation ongoing.
10	ICT: Concerto Asset Management System: System implemented	16-Mar-23	16-Mar-23	Technical implementation ongoing. Go live planned 16/03/2023.
11	ICT: Highways Information Asset Management System: Contractuals finalised	14-Nov-22	14-Nov-22	Existing County Council contract has been modified for implementation services. Two new contracts to be awarded via G-Cloud Framework 13 ahead of 1 April 2023.
12	ICT: Learning Management Systems live	31-Mar-23	31-Mar-23	Implementation ongoing.
13	ICT: HR and Payroll System(s) operational	31-Mar-23	31-Mar-23	Sovereign systems will be utilised for Day 1. Additional super-users will be in place.
14	ICT: Adults & Childrens Social Care Case Management System in place	31-Mar-23	31-Mar-23	Systems now subject to Plan B contingency planning in parallel with detailed updates being progressed.

Key Milestones (Continued)

No.	Description	Planned Date	Forecast Date	Commentary
15	ICT: Reablement and Care Rostering System in place	31-Mar-23	31-Mar-23	Technical implementation ongoing.
16	Finance: Budget Consultation	31-Jan-23	31-Jan-23	Complete. The consultation for the 2023/24 budget for Cumberland council closed on 31/01/2023 and the consultation regarding council tax for Westmorland & Furness council closed on 13/02/2023.
17	Finance: Budget 2023/24 agreed by Shadows and Council Tax set	27-Feb-23	10-Mar-23	Full Council approval of the council budgets for 2023/24 and the Medium Term Financial Plan(s). Cumberland full council meeting 01/03/2023. Westmorland and Furness full council meeting 07/03/2023.
18	Legal and Democratic: Westmorland and Furness Shadow Authority approval of Constitution	31-Jan-23	23-Jan-23	Complete - constitution approved by W&F Shadow Authority on 23/01/2023.
19	Legal and Democratic: Cumberland Shadow Authority approval of Constitution	10-Mar-23	26-Jan-23	Complete - constitution approved by Cumberland Shadow Authority on 26/01/2023.
20	Legal and Democratic: Complete Section 16 Agreement	20-Mar-23	27-Mar-23	The Section 16 Agreement will be considered by the Westmorland and Furness Cabinet on 20/03/23 and the Cumberland Shadow Executive on 27/03/23.
21	Policy and Performance: Cumberland Business Continuity Management plan approved	30-Mar-23	30-Mar-23	Each unitary authority is working towards establishing a Business Continuity Board (BCB) in advance of Day 1.
22	Policy and Performance: Westmorland and Furness Business Continuity Management plan approved	30-Mar-23	30-Mar-23	Each unitary authority is working towards establishing a Business Continuity Board (BCB) in advance of Day 1.

Key Decisions / Issues for Escalation

No items for escalation.

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Finance - Implementation Reserve to 31/01/2023 (as at 17/02/2023 report)

Budget Line	Initial Allocation (£)	Virements approved by Programme Board (£)	Updated Allocation (£)	Approved / Committed Spend to 19/01/2023 (£)	Actual Spend to 31/01/2023 (£)
Programme Management	4,400,000	455,610	4,855,610	4,503,563	3,555,703
People	1,100,000	492,500	1,592,500	1,592,500	802,094
Place	600,000	-300,777	299,223	299,223	220,173
Corporate/Enabling Services	1,100,000	1,599,195	2,699,195	2,599,195	1,336,130
Finance & Commercial	750,000	-192,315	557,685	557,685	358,499
Customer & Digital	350,000	365,000	715,000	715,000	204,690
ICT	4,350,000	0	4,350,000	4,350,000	1,906,996
Branding	750,000	0	750,000	750,000	16,200
Shadow Chief Exec/Member	850,000	1,063,461	1,913,461	1,913,461	1,119,827
Election Costs	1,200,000	-110,000	1,090,000	1,090,000	1,042,050
Contingency	3,470,000	-3,372,674	97,326	0	0
Total	18,920,000	0	18,920,000	18,370,627	10,562,362
Total Funding Available	(18,920,000)		(18,920,000)	(18,920,000)	(18,920,000)
Total Funding Remaining	0		0	(549,373)	(8,357,638)

Programme Dashboard

Accountable Owner: John Metcalfe

Board Date:

Responsible Owner: Kathryn Griffiths

21-Feb-23

Key Strategic Changes (Extract from Programme Change Register)




Change ID	Theme	Work Package/ Work Stream	Day 1 Requirement ID	Change Description	Impacted Areas / Comments	Change Type	Impact (1-5)	Change Status
CH-CECE-05	Corporate & Enabling	Communications	COMMS-REQ-04-L2-M01	<p>Day 1 Requirement: Comms systems and operating processes in place for each council</p> <p>2 additional Level 3 Milestones added to track progress to Day 1:</p> <p>1. Systems for each council to be operational End date: 28/2/23</p> <p>2. Legacy data and contents to be transferred and ready for systems to go live End date: 31/3/23</p>	The systems referred to are media management, e-newsletter delivery system, social media management platform etc, no interaction with ICT	Scope	3	Change approved
CH - CEHROD-06	Corporate & Enabling	HR/OD	HR-REQ-03	<p>Day 1 Requirement: Complete TUPE Transfer to New Authorities</p> <p>End date change From: 06/2/23 To: 24/02/23 Rationale is due to a delay in the finalisation of the staff allocation process and finalisation of Version 4 Data/TUPE Letter Preparations.</p>	No direct impact on other areas across the programme but delays the completion of the final confirmation of TUPE Arrangements to Staff to 4 weeks before vesting day. The majority of staff will have already received allocation confirmation letters and will have had discussions with their existing line managers - the TUPE letter is the formal/legal mechanism that confirms these arrangements.	Time	4	Change approved
CH-CD-05	Customer and Digital	Customer Experience & Service Improvement	C&D-REQ-05-L2-M02	<p>Level 2 Milestone: Testing of telephony solutions</p> <p>Change to milestone end date from: 01/02/23 to: 28/02/23 Request date change due to original spreadsheet input error.</p>	None identified	Time	2	Change approved
CH-CELD-34	Corporate & Enabling	Legal and Democratic	LEGAL-REQ-58-L1-M01	<p>Level 1 milestone end date change Inter Authority Agreement (IAA) sign off at Shadow Authority Cabinet Change start date from:16/02/2023 To: 20/03/2023 Change end date from: 24/02/2023 To:27/03/2023 Reason IAA will go to March Shadow Cabinet/Executive meeting as agreed by SROs.</p>	All Hosted Services	Time	5	Change approved
CH-CELD-35	Corporate & Enabling	Legal and Democratic	LEGAL-REQ-56-L1-M01	<p>Day 1 Requirement and Level 1 Milestone end date change: Completion of Section 16 Agreement Change end date from 20/03/2023 to 27/03/2023 to align with date for Cumberland Executive approval (W&F Cabinet is on 20/03/2023).</p>	All Themes	Time	5	Change approved

Key Strategic Risks

Risk ID	Risk Category	Description	Target Likelihood (1-5)	Target Impact (1-5)	Target Risk Score	Current Likelihood (1-5)	Current Impact (1-5)	Current Risk Score	Direction of Travel	Key Mitigations (Controls and Actions)
RSK - PROG - 01	Strategic	There is a risk that the programme fails to create three financially sustainable organisations (two unitary councils and PCC governed FRS) with effect from 1 April 2023	2	5	10	3	5	15	↔	Every organisation will have a Medium Term Financial Plan covering estimated revenue income and expenditure over at least the next three years. This will be informed by a clear articulation of budget disaggregation outputs and input to the development of the MTFP for all organisations. They will also have a similar plan for likely capital income and expenditure. The budget for the forthcoming year (year one of the MTFP post vesting day) will be considered in more detail, leading to the setting and approval of detailed income and expenditure budgets on a service-by-service basis. It is essential that the budget is set in accordance with the service plans and objectives for the forthcoming year and within the available financial envelope. This will be informed by the planning for services process which will take place over by the end of February providing a clear view on pressures and potential savings that will need to be made to ensure a balanced budget. There is also an ongoing dialogue with DLUHC about the potential for financial support with transitional and transformation costs in the short term <u>No change in February review</u>
RSK - PROG - 02	Strategic	There is a risk that the financial challenges (in year and future pressures) impact on the financial assumptions on which the three organisations are developing their medium term financial plans	2	5	10	3	5	15	↑	All sovereign councils are committed to delivering a balanced budget at the end of FY22/23. This is being supported by tight financial management in current councils to remain within budget and minimise potential use of reserves to offset spending. No new spending will be initiated by existing councils without consultation with the new organisations. However, growth in demand for some services may add additional pressures on base budgets for future years and financial options will need to be developed to accommodate such growth without additional government support. <u>Likelihood reduced 4 to 3 in February review</u>
RSK - PROG - 03	Strategic	There is a risk that there are insufficient resources to deliver all of the required activities for a safe and legal Day 1 transfer and to prepare new organisations for transitional activities from Day 1.	3	4	12	3	4	12	↑	The Senior Responsible Officers (Chief Executive Designates and the Cumbria County Council Chief Executive) are reviewing current commitments for the LGR implementation reserve and it is expected that the required resources to deliver day 1 safe and legal will be available, either through further challenge of the use of the reserve or additional financial support from sovereign authorities, The above will be supported through a rigorous governance process to control spend as the programme continues to progress. This will include the completion of an Officer Decision Record requiring S151 sign-off, as well as review and approval by the 3 programme SROs. <u>Likelihood reduced from 4 to 3 in February review</u>
RSK - PROG - 04	Strategic	There is a risk that the programme fails to deliver all of the necessary activities for the safe and legal establishment of three organisations from April 1 2023 (Day 1).	2	5	10	3	5	15	↔	Day 1 activities are all mapped and set out in individual delivery plans, which are monitored weekly by the Day 1 board with support from individual theme groups. Any potential risks and issues to delivery are flagged at Day 1 board, where they are discussed and actions are agreed to remedy them. Further escalations are made to the Programme Board, where the intervention, support or steer from Sovereign Chief Execs is required. In addition there are change control mechanisms in place that allow for interdependences of activities to be considered before any planned activity is amended. <u>No change in February review</u>
RSK - PROG - 05	Strategic	There is a risk that key service provider failures divert attention from the ability of the LGR programme to achieve delivery plans and maintain delivery of key services.	3	4	12	3	4	12	↑	Resources within the LGR team would need to be prioritised to those activities essential to reach safe and legal transition on Day 1 and away from those activities that are more about setting the organisations up to transform over the longer term. Where there is an urgent need to redirect resources, options for doing this will need to be discussed and agreed at Programme Board by sovereign chief execs. <u>Likelihood reduced 4 to 3 in February review</u>
RSK - PROG - 06	Strategic	There is a risk that current organisations need to respond to 'shocks' in their operating environment (emergency situations or industrial action) which divert attention from the ability of the LGR programme to achieve delivery plans and maintain delivery of key services.	2	5	10	3	5	15	↔	Resources within the LGR team would need to be prioritised to those activities essential to reach safe and legal transition on Day 1. Where there are emergency situations that require urgent focus, options on how to resource these (in line with current business continuity plans) and consider minimising impact to the delivery of the programme, will need to be drafted and agreed with sovereign chief execs and/or the Programme Board. <u>No change in February review</u>

Key Strategic Risks (Continued)

Risk ID	Risk Category	Description	Target Likelihood (1-5)	Target Impact (1-5)	Target Risk Score	Current Likelihood (1-5)	Current Impact (1-5)	Current Risk Score	Direction of Travel	Key Mitigations (Controls and Actions)
RSK - PROG - 07	Strategic	There is a risk of the loss of key personnel central to the delivery of the programme prior to its completion	3	4	12	3	4	12	↔	Theme Leads will need to make sure that there are no single points of failure in the programme. The programme is working to ensure staff are given certainty around their continued employment options post vesting day as soon as possible by reviewing fixed term arrangements and finalising the staff allocations process as soon as possible. <u>At Target - no change in February review</u>
RSK - PROG - 08	Strategic	There is a risk that the programme fails to recruit staff to senior (Chief Officer) posts in sufficient time to influence service and budget planning	2	4	8	3	4	12	↑	Undertake recruitment process drawing from internal resources first and then external advertisement as soon as vacant positions are clear. There are national challenges to recruiting to some key statutory posts and that there is perceived to be a challenge recruiting people to Cumbria which might require other incentives to attract the right candidates. <u>Likelihood reduced from 4 to 3 in February review</u>
RSK - PROG - 09	Strategic	There is a risk that suppliers (particularly ICT) fail to agree appropriate and timely terms and conditions for the provision of goods and services necessary to affect the establishment of the three organisations from Day 1	2	5	10	4	5	20	↔	Extensive legal advice has been taken on the route to market for all essential goods and services. This is informing contract negotiations however they are still being challenged by suppliers seeking to use LGR as a commercial opportunity. These will need to be considered on a case by case basis, with consideration being given to the perceived risk and merit. <u>No change in February review</u>
RSK - PROG - 10	Strategic	There is a risk that the scale of ambition for transformation in the three organisations exceeds the capacity of the programme to provide support or build into the transitional planning that should follow Day 1	2	4	8	2	4	8	↑	SROs to keep under review the balance between activities necessary for safe and legal arrangements to be delivered on Day 1 alongside the need to plan for the transformation of all organisations post vesting day and to set in place plans to deliver that transformation in readiness for when they become operational. <u>Likelihood reduced from 3 to 2 in February review</u>
RSK - PROG - 11	Strategic	There is a risk that the programme fails to allocate staff to each organisation in a fair and proportionate manner to support their ongoing success and to properly identify how specialist roles are to be shared between the organisations	2	3	6	2	3	6	↔	The staff allocation process allows for adequate time for consultation with staff and allocations take into consideration the needs of each organisation (including identifying where specialist roles will need to be shared between organisations). Undertake recruitment process drawing from internal resources first and then external advertisement as soon as vacant positions are clear. There are national challenges to recruiting to some key statutory posts and that there is perceived to be a challenge recruiting people to Cumbria which might require other incentives to attract the right candidates. <u>No change as at target score</u>
RSK - PROG - 12	Strategic	There is a risk that the programme fails to establish an Inter Authority Agreement between all organisations to support the basis on which many programme deliverables have been developed.	2	4	8	2	4	8	↑	Regular engagement with all stakeholders in the development of the overarching legal agreement and the associated schedules that govern each hosted service arrangement. Governance of the development of the agreements will be through the Members Implementation Board prior to final sign off by both unitary authorities. To support the development of the agreement and service schedules, additional legal resource has been procured to advise on the approach and support the drafting of the agreement and schedules, with an officer working group in place to drive the activity and support services accordingly <u>Likelihood reduced from 3 to 2 in February review</u>

Key: Direction of travel arrows
 = Risk score declining
 = No change
 = Risk score increasing

Day 1 Board report 21 February 2023

Data Date: 16/02/2023

Report Summary:

In the last 7 days, the number of Day 1 requirements marked complete has increased from 48 - 56 and the number nearing completion (<70% complete) has increased from 46 - 57.

The 8 Day 1 requirements completed this week cut across a number of themes including Corporate and Enabling, People, Place and the Fire Service.

The number of milestones completed has increased by 85 in the last week from 777 to 862. This represents 64.4% of the 1,337 programme milestones.

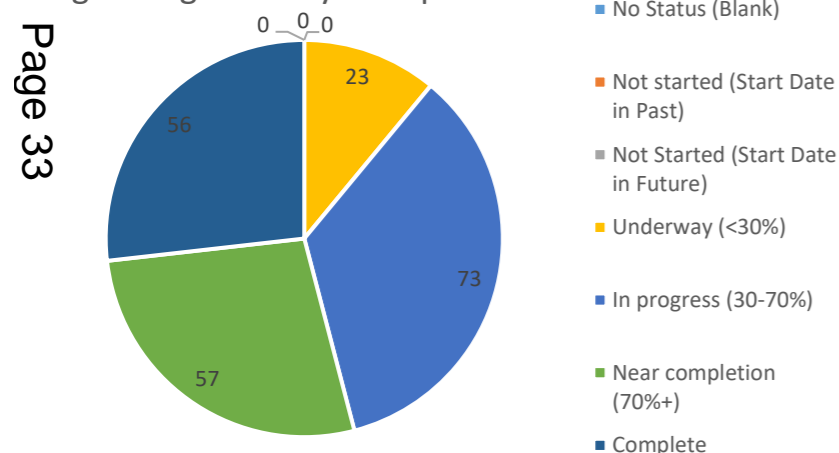
The number of milestones 'passed, but not complete' has decreased slightly from 69 to 63, almost 50% of the missed milestones are in the Fire theme area. These (along with all other milestones) were reviewed by Day 1 Board to ensure appropriate resource is in place to complete the activities in advance of Vesting Day.

The number of milestones 'flagged' as an area of concern has decreased very slightly from 10 to 9 in the last week, 4 of the 9 items flagged are in the People Theme where there are specific risks to highlight regarding the social care case management systems and recruitment to key posts required before Vesting Day.

The number of milestones due to be completed in the next two weeks has increased significantly from 11 last week to 196 this week, as previously noted, this was forecast to increase as we approach March 2023.

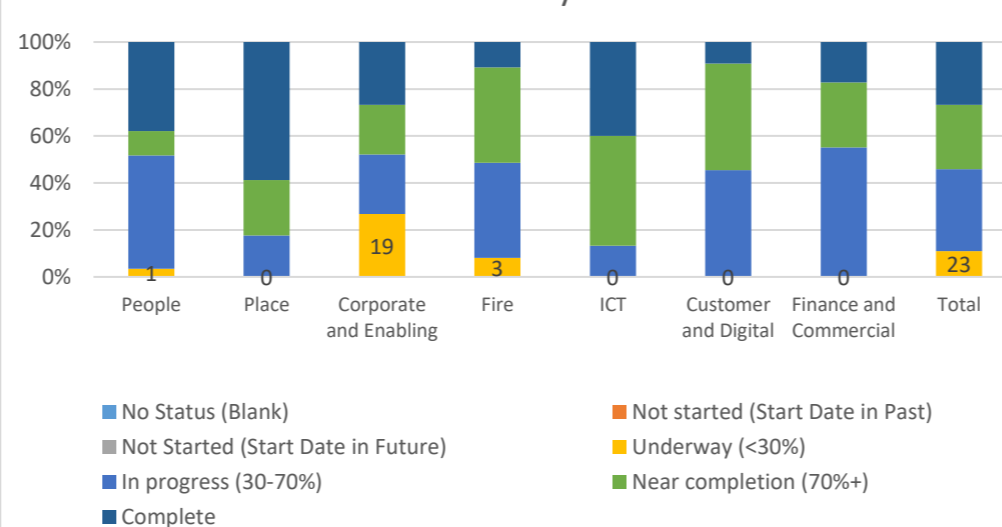
Finally, a number of Day 1 requirements (3) and milestones (28) have been identified as requiring completion after Vesting Day. The activities identified will be considered by the Westmorland and Furness Board and the Cumberland Senior Leadership Team to ensure officers are in agreement that completion can take place after Vesting Day and to ensure an appropriate resources are in place to complete the necessary work.

Progress Against Day 1 Requirements

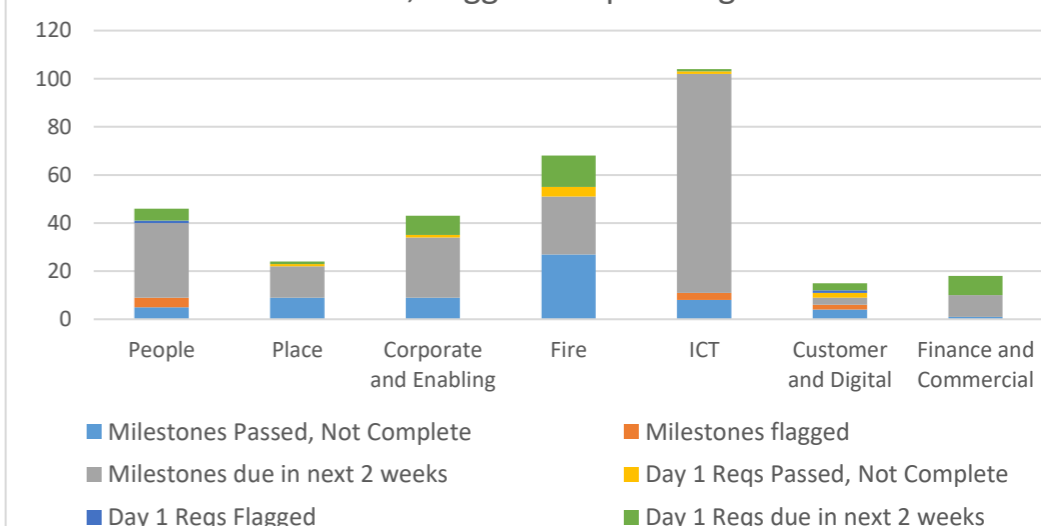


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Breakdown by Theme



Requirements and Milestones that are incomplete and due, flagged or upcoming



Day 1 requirements and milestone count

	People	Place	Corporate and Enabling	Fire	ICT	Customer and Digital	Finance and Commercial	Total
Day 1 requirements	29	18	72	37	16	11	29	212
L1 milestones	-	-	51	-	18	4	4	77
^L Or Fire Board	-	-	-	51	-	-	-	51
L2 milestones	14	7	61	24	125	10	3	244
L3 milestones	83	69	230	31	449	33	72	967
	97	76	342	106	592	47	79	1339

Day 1 requirements status updates

	People	Place	Corporate and Enabling	Fire	ICT	Customer and Digital	Finance and Commercial	Total
No Status (Blank)	0	0	0	0	0	0	0	0
Not started (Start Date in Past)	0	0	0	0	0	0	0	0
Not Started (Start Date in Future)	0	0	0	0	0	0	0	0
Underway (<30%)	1	0	19	3	0	0	0	23
In progress (30-70%)	14	3	18	15	2	5	16	73
Near completion (70%+)	3	4	15	15	7	5	8	57
Complete	11	10	19	4	6	1	5	56
Post-Day 1 Requirements	0	1	1	0	1	0	0	3
	29	17	71	37	15	11	29	209

Milestone & Day 1 Requirements Summary

	People	Place	Corporate and Enabling	Fire	ICT	Customer and Digital	Finance and Commercial	Total
Milestones Complete	49	37	242	38	418	34	44	862
Milestones Complete (%)	50.5%	48.7%	70.8%	35.8%	70.6%	72.3%	55.7%	64.4%
Milestones Passed, Not Complete	5	9	9	27	8	4	1	63
Milestones flagged	4	0	0	0	3	2	0	9
Milestones due in next 2 weeks	31	13	25	24	91	3	9	196
Post-Day 1 Milestones	4	8	7	6	8	0	2	35
Day 1 Reqs Passed, Not Complete	0	1	1	4	1	2	0	9
Day 1 Reqs Flagged	1	0	0	0	0	1	0	2
Day 1 Reqs due in next 2 weeks	5	1	8	13	1	3	8	39

Actions snapshot

<p>The Delivery plans include 4872 lines of data, of which:</p> <ul style="list-style-type: none"> 91.2% have an owner 90.7% have a start date 91.0% have an end date 95.9% have a status recorded 	<p>Of data marked as a Day 1 Requirement or a Milestone:</p> <ul style="list-style-type: none"> 100.0% have an owner 100.0% have a start date 100.0% have an end date 100.0% have a status recorded
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Cumberland Shadow Executive

27 March 2023

Community Panels

Report from: Cllr Lisa Brown, Deputy Leader
Report Author: Colin Cox
Director of Public Health and Communities
Communities and Localism Working Group
Wards: All Wards
Key Decision: Yes

1.0 Purpose/Summary of report

1.1. The purpose of this report is to update the Shadow Executive on the work of the Communities and Localism Working Group. The Working Group has reached an initial set of conclusions and is now in a position to report back their findings and recommendations. The Working Group has focused on the following topics during its consultation with all Members and lead officers:

- Governance
- Geography
- Community engagement
- Partners

2.0 Recommendations

2.1 It is recommended that Shadow Executive: -

(1) Note and comment on the work completed by the Communities and Localism Working Group, including the Terms of Reference for the Community Panels as set out in the Constitution.

(2) Adopt the 8 Area Community Panel model for area working

(3) Agree the key issues that need to be reflected in the funding formula, for the allocation of funding to the Community Panels

(4) Delegate any changes to the Community Panels, Terms of Reference to the Chief Legal Officer (Monitoring Officer) in consultation with the Director of Public Health and Communities and the Deputy Leader

(5) Delegate any changes to the funding formula to the Chief Finance Officer in consultation with the Director of Public Health and Communities and the Deputy Leader

3.0 Background and Proposals

Communities and Localism Working Group

- 3.1 In July 2022, the Shadow Executive agreed that Communities and Localism, as a work package within the Local Government Reorganisation (LGR) Programme, would be a separate service within Cumberland Council.
- 3.2 A Communities and Localism Steering Group, with sub groups, was established to develop the separate service and prepare for the new area working arrangements. The Steering Group had the following aims:
- Develop democratic governance model and associated area working
 - Work with community representatives stakeholders and wider community, including Town and Parish Councils, to engage on local opportunities
 - Build on, develop and continue to support resilient communities and empower residents to shape services
 - Develop and define the Council's strategic approach to supporting inclusive local economies that work for residents which is a key element of the council plan
 - Transformation Stage: Concept testing of strategic intent to further develop the relationship with communities and town or parish councils by co-creation of services with selected partners prior to wider implementation
- 3.3 The sub groups merged in February 2023 to create a single Working Group with a focus on preparing for Day 1, making a smooth transition from the existing 3 Local Committee model to the recommended 8 Community Panel model.
- 3.4 In the report to Council on the Constitution the Chief Legal Officer summarised the purpose of a Community Panel as follows:
- 'It is envisaged that each Community Panel will prepare a Community Plan setting out the priorities for each area and following this appropriate responsibilities and budgets will be devolved to the Panels. Additionally, each panel may request that particular responsibilities are devolved to it. The intention is that this model will be flexible and will develop over time. Each Panel has the flexibility to co-opt members and to set up Working Groups or Task and Finish Groups.'*
- 3.4 To support Members working with the new model, two workshops have been arranged to prepare Members for the first meetings of the 8 Panels. These will both take place in April and cover the responsibilities of the Community Panels including decisions to be made and budgets together

with discussion on engagement and preparation of a Community Neighbourhood Panel Plan.

Governance and funding formula

- 3.5 The Shadow Council agreed the Constitution at its meeting in January 2023. The Constitution sets out the Terms of Reference for the Community Panels, which can have powers delegated to them from the Leader, Executive and Council. The Terms of Reference are included in Appendix A.
- 3.6 Each Community Panel will meet at least 4 times annually. The Constitution states: *'Where a Community Panel exercises powers granted to it by the Executive or Council it must do so within the parameters of the policies set by the Council and Executive and as set out in the terms of reference, including the ability to consider and report to Executive and Council on any matter affecting their area. Community Panels operate within Council policy and decisions must be consistent with the Budget and Policy framework and service specific policies.'*
- 3.7 The Chair and Vice-Chair of each Community Panel will attend the Highways and Transport Board, a structural committee of the Executive.
- 3.8 The Terms of Reference for Overview and Scrutiny Committees includes the following: *'in performing its role, may consult and involve the local community and other local public, private and voluntary bodies or organisations, including the Council's Community Panels.'* The Place Overview and Scrutiny Committee will have the Community Panels within its remit.
- 3.9 The Director of Children and Family Wellbeing has specific powers to nominate local authority governors to maintained schools in consultation with the relevant local Councillor or the Chair and Vice Chair of the relevant Community Panel.
- 3.10 Each Community Panel will be delegated appropriate budgets as approved by the Executive and agreed as part of the annual budget (revenue and capital) approved by Council and will work within the limitations of the guidance for the use of those budgets issued by Executive.
- 3.11 The appropriate budget will be based on a funding formula, not simply a total population. The following key issues are to be reflected in the formula:
- The overall aim is to improve the health and wellbeing of our residents
 - We want our residents to access opportunities that will empower them to achieve their goals. Inequality continues to hold people back from reaching their true potential and we will work with residents and partners to challenge entrenched issues in areas such as health, education, life expectancy and deprivation.
 - We have a key focus on food security and the food system. We believe that each resident has a "Right to Food". This means that food should be adequate, available, and accessible and affordable.

- The local economy has a significant impact on the health and wellbeing of individuals
- The environment in which our people live has a huge impact on health and wellbeing

Geography

- 3.12 The Cumberland Council Plan sets the overall strategy for the Council, taking a fresh approach to the delivery of inclusive services that are shaped by our residents and communities. The Community Panel model will enable this to happen at a local level.
- 3.13 At this level the Community Panel will be closer to the challenge set out in the Plan,
- ‘We will work hard to remove as many barriers, differences and inequalities as possible to ensure that everyone in our community can engage with us. We also recognise that when we do ask people to engage with us, it has to be meaningful.’*
- 3.14 In fulfilling this purpose, through Neighbourhood Investment Plans, the Community Panels will be free to be more agile and responsive. The greater the degree of local knowledge influencing decisions the more likely the outcomes will meet the needs of the local communities.
- 3.15 The 8 Community Panel model is a compromise. It is the starting point which has the potential to generate engagement at a community level (participatory democracy) whilst respecting the representative democracy of the Electoral Wards and parish and town council boundaries.
- 3.16 The 8 Community Panel model has been created to ensure that a range of community assets are within all panel areas. The model will enable grant funding at operational, tactical and strategic levels across Cumberland, encouraging collaborative funding to maximise investment from external funders.
- 3.17 The Cumberland Council Target Operating Model includes community development as an outreach activity, stating:
- ‘At its core the Target Operating Model will empower communities. Through partnership working and targeted community development, Cumberland Council will seek to strengthen support networks and respond to signs of need early to reduce pressure on the public sector services.’*
- 3.18 Each Community Panel is comprised of all members of the Council representing those wards falling within each Community Panel boundary. The following table sets out the recommended grouping of the wards into the 8 Community Panel model:

Wards	Community Panel
Belle Vue, Castle, Denton Holme, Morton, Yewdale	1
Botcherby, Currock, Harraby North, Harraby South, Upperby	2
Brampton, Houghton and Irthington, Wetheral, Belah, Corby and Hayton, Longtown, Stanwix Urban	3
Solway Coast, Thursby, Aspatria, Wigton, Dalston and Burgh	4
Bothel and Wharrels, Cockermouth North, Cockermouth South, Dearham and Broughton, Keswick, Maryport North, Maryport South	5
Moss Bay and Moorclose, Harrington, Seaton, St Michaels, St. Johns and Great Clifton	6
Bransty, Egremont North and St Bees, Hillcrest and Hensingham, Howgate, Kells and Sandwith, Mirehouse	7
Gosforth, Millom Without, Cleator Moor East and Frizington, Cleator Moor West, Egremont, Millom	8

3.19 A map outlining each ward within the 8 Community Panels is included in Appendix B.

Community Engagement

3.20 The role of the Community Panels is to encourage community engagement and local decision making. They may report on matters of local concern to the Executive, Overview and Scrutiny Committee, or the Council. Each Community Panel will work with the community to develop a plan setting out the priorities for their area, this plan can have sections bespoke to the communities within the Community Panel area.

3.21 Alongside the Community Panel a Community Network Panel is recommended. The Community Network Panel is less formal than the Community Panel, it is proposed that such a network is run alongside the Community Panel with deeper reach and engagement with partners and community representatives. Up to 4 network panel meetings per year are anticipated to ensure engagement and participation with the Neighbourhood Investment Plan.

Partners

3.22 North Cumbria has been divided into 8 Integrated Care Communities (ICCs) based on groups of GP practices and their patients. An integrated care community is where teams work together to improve the overall health and wellbeing of their community. This shared purpose will make the ICCs very

important partners in fulfilling the actions and ambitions of the Community Panels. The 8 ICCs do not fall on the same footprint as the 8 Community Panels proposed but there is scope for effective alignment.

- 3.23 Cumbria Constabulary have reorganised their policing areas (Basic Command Unit, BCU) into two, along the same footprint of the two new Councils. Within the Cumberland BCU there are two levels of organisation, Quadrant (2) and Locality (18). There are opportunities to collaborate on surveys and plans.
- 3.24 Local Focus Hubs have been a successful part of partnership working and will continue as part of the Council's operating model. The Local Focus Hubs will be able to support the Community Panels in collaboration with partners in the Community Safety Partnership (CSP). The Local Focus Hubs are skilled in identifying community issues and working with partners in addressing these issues.
- 3.25 The extensive reach and active networks of the Third Sector and parish and town councils will be valuable to the Community Panels. The Cumbria Council for Voluntary Service supported 997 organisations active across the Cumberland Council area in 2022, through the Third Sector Network. There are currently 126 parish and town councils in the Cumberland Council area, stretching from Bewcastle Parish Council on the Scottish Border to Millom Town Council on the Duddon Estuary.

4.0 Consultation

- 4.1 The feedback on the Cumberland Council Plan included comments with reference to community include the following topics:
 - Person-centred approach
 - Prevention and early intervention
 - Pride and sense of belonging
 - Community wealth building
 - Promoting sport, culture and arts
 - Climate crisis, mitigation and adaption

Quotes from the feedback comments are included in Appendix C.

- 4.2 Member briefings and workshops took place in December 2022 (Cumbria House) and January 2023 (Allerdale House) to discuss the proposals for a new model of area working.

5.0 Alternative Options

- 5.1 A range of panel area models, some with more and some with less than 8, have been considered and discussed. These alternative options included the continuation of the 3 Local Committee model on the district council footprints.

6.0 Implications

Financial, Resources and Procurement

- 6.1 Each Community Panel will be delegated appropriate budgets as approved by the Executive and agreed as part of the annual budget (revenue and capital) approved by Council and will work within the limitations of the guidance for the use of those budgets issued by Executive. The Community Panels will be subject to financial controls which are fully compliant with the Financial Procedure Rules.

Human Resources

- 6.2 Workshops to prepare Members for the changes in area working and the new model have been arranged for April. Staff and Members will be briefed on the changes over Spring in preparation for the first round of Panel meetings in summer.

Legal

- 6.3 The Community Panels are “Area Committees” within the definition of section 9E of the Local Government Act 2000. As such, they concern functions which under Executive Arrangements are the responsibility of the Executive and it is properly a decision for the Executive as to how to establish the Panels.
- 6.4 The definition of an “Area Committee” under ss 9E(8) and (9), however, is that it is a Committee of the Council. Once established, therefore, the Community Panels are able to undertake non-Executive functions delegated from full Council. The Panels may, therefore, carry out both Executive and non-Executive functions, and are exempt from the need for political balance, but only so long as each satisfies the following criteria:
- i. It is established to discharge functions in respect of part of the area of the authority, and
 - ii. The members of the Panel who are members of the authority are elected for the wards which fall wholly or partly within that ward.

As proposed, the Community Panels meet these criteria.

Health and Sustainability Impact Assessment

- 6.4 Have you completed a Health and Sustainability Impact Assessment? No
- 6.5 An Impact Assessment was completed for the Cumberland Council Plan. As the Community Panels draft their first Neighbourhood Investment Plans the need for further assessments will be reviewed.

Equality and Diversity

- 6.6 Have you completed an Equality Impact Analysis? No
- 6.7 An Impact Assessment was completed for the Cumberland Council Plan. As the Community Panels draft their first Neighbourhood Investment Plans the need for further assessments will be reviewed.

Risk Management	Consequence	Controls required
There is a reputational risk if Executive do not implement a new model of area working.	The ambitions set out in the Cumberland Council Plan will not be fully realised.	The roles set out in the Constitution have ensured that controls are in place to manage the risk.

7.0 Contributions to Cumberland Council Plan priorities

- 7.1 The new model for Community Panels will help to deliver the priorities in the Plan, at a local level. The increased communication and engagement through the Community Network Panels will inform the first review of the Plan later in the Civic Year.

Contact Officers

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Appendices Attached to this Report

Appendix No.	Name of Appendix
A	Terms of Reference for the Community Panels
B	8 Community Panel model map
C	Quotes from Cumberland Council Plan feedback

Background Documents Available

None

Appendix A: Terms of Reference from for the Community Panels extracted from the Constitution.

13 COMMUNITY PANELS

Terms of Reference

13.8 The purposes of the Community Panels are:

13.8.1 To actively encourage local residents to become involved in decision-making on matters which affect them.

13.8.2 To lead and enable effective implementation of the Neighbourhood Investment Plan.

13.8.3 To monitor the quality and effectiveness of services delivered by the Council and other main providers in the local area.

13.8.4 To lead on development of a Neighbourhood Investment Plan, which includes all main priorities for improvement of the Area, for approval by the Executive.

13.9 In pursuit of these objectives, the Community Panel may:

13.9.1 Consult, engage and involve local people and organisations in development and delivery of the Neighbourhood Investment Plan.

13.9.2 Consult, engage and involve partner agencies in development and delivery of the Neighbourhood Investment Plan.

13.9.3 Actively review the activities of other agencies within its area with a view to ensuring that services, initiatives and their manner of delivery meet local requirements as fully as possible.

13.9.4 Constructively challenge service providers to improve the standards of service and the levels of public satisfaction and trust with them.

13.9.5 Identify priorities for allocation of budgets delegated to the Community Panel.

13.9.6 Commission activity to improve local quality of life and public satisfaction in its area.

13.9.7 Promote and publicise initiatives taken to improve local quality of life and public satisfaction and to increase participation in decision making.

13.9.8 Request and consider reports in support of the Community Panel's work.

13.10 The Community Panel will also produce an Annual Report which will review and evaluate the degree to which it was successful in achieving its objectives and effective in promoting community leadership.

Delegated powers

- 13.11 The Council and the Executive may delegate powers and functions to the Community Panels which will be recorded here.

Conflicts of Interest

- 13.12 If an Overview and Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of the Community Panel for which an Overview and Scrutiny Committee Council is a member, then that Councillor may not speak or vote at the Overview and Scrutiny Committee meeting unless a dispensation to do so is given by the Standards and Governance Committee.
- 13.13 Where the Overview and Scrutiny Committee is reviewing policy generally, the Community Panel member must declare their interest before the relevant agenda item is reached, but need not withdraw.

Access to Information

- 13.14 Community Panels will comply with the Access to Information Procedure Rules. Agendas and notices for meetings which deal with both functions of the Executive and functions which are not the responsibility of the Executive will state clearly which items are which.

Appendix B: 8 Community Panel model map



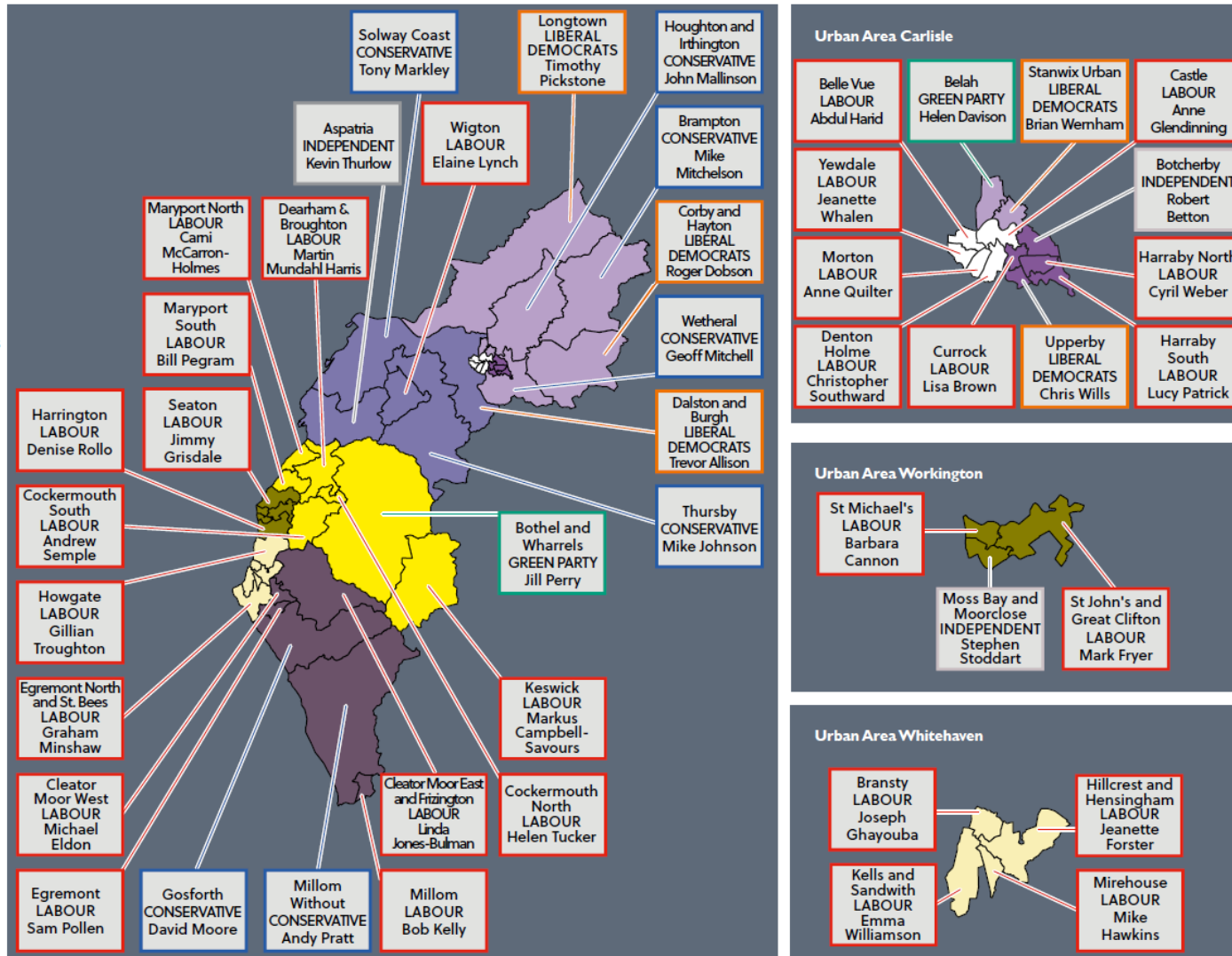
Cumberland Council

Cumberland Community Panels

Cumberland Council consists of eight Community Panels

- Panel one
- Panel two
- Panel three
- Panel four
- Panel five
- Panel six
- Panel seven
- Panel eight

March 2023



Appendix C: Quotes from feedback on Cumberland Council Plan

The overall impression of third sector organisations involved in the online event was very positive; they liked the vision and overall ambition of Cumberland Council, and the prospect of better joined up services.

Voluntary and community sector groups felt that they had a role to play in helping user and resident voices to be heard (alongside other routes), but were clear that this is resource intensive, and would require funding (and similarly, that the Council will need to ensure engagement activity is adequately resourced if it to be successful).

West Cumbria Child Poverty Forum agree that accessible and trusted services are crucial, particularly for families who have faced barriers in successfully working with Councils previously. From our extensive work to understand challenges around social housing, we found that a person-centred approach and partnership working were essential in getting the best outcomes for families. We encourage the Council to embrace a relational approach when working with residents who use their services, using their discretionary powers to ensure that the individual circumstances of each family in need are fully understood and met. UCLan champions community participation and the role that communities can play in shaping their future. We welcome the ambition to involve and engage residents in decisions that impact on them. When doing this, we urge the Council to consider innovative methods to engage all residents, including children and young people. We believe that through the delivery of practical support and interventions by community-based teams, a plan that enables communities to find solutions for themselves and be supported in delivering their solutions. We encourage the Council to take inspiration from innovative local government approaches such as the Preston model which uses local procurement within the Council and other anchor institutions as a means (amongst many) to build community wealth.

There needs to be more ambition for cultural arts and development - how do we inspire people and provide opportunities to engage in culture, arts and sports in order to boost wellbeing and learning? I would like to see more emphasis on working with arts and community organisations to provide opportunities in the community from grass roots onwards, working together using our parks and leisure services and becoming better at engaging vulnerable group

I would like to see more mentioned about tackling climate change in the plan. We are very vulnerable to extreme weather events and this will only get worse. I would also love to see a focus green spaces in our urban areas. There should be more community engagement and civic pride encouraged in residents, volunteering opportunities could be advertised better, giving residents a chance to meet up and tackle loneliness and promote pride in public areas, improving the area for all.

Cumbria is an amazing county with lovely people and it could make a lot more of itself by working collaboratively and bringing a sense of pride back to communities. We should lead the way with green energy and set an example of how respecting the environment and working with it instead of against it can produce healthier, prosperous communities.

People need to know where to get help until the new council is a bit more evolved and wrap around services are more integrated as community and social care .

Cumberland is very well placed, as a Unitary Authority with a huge geography, dispersed rural communities and natural environment to deliver a much more inclusive, fair, low-impact, community-centred, sustainable strategy that delivers for local people.

I would like to see effective services in the community aimed at supporting older adults with their current issues (given the population balance) and enabling younger people who need to be able to live and work locally. It would be good to see services helping grow community activity and sense of belonging.

Cumberland Shadow Executive

27th March 2023

Inter Authority Agreement - Hosted Services

Report from:	Cllr Mark Fryer, Leader of the Council
Report Author:	Monitoring Officer
Wards:	All Wards
Key Decision:	Yes

1.0 Purpose/Summary of report

- 1.1. The purpose of the report is to present the suite of documents that together form the Inter Authority Agreement (IAA) between Cumberland Council (CC) and Westmorland and Furness Council (WFC) for hosted services from the 1st April 2023. The two authorities have agreed that for certain periods of time the exercise of their duties is best served by way of particular functions and services being discharged and delivered jointly and that certain former Cumbria County Council contracts should be managed jointly. This report sets out the governance arrangements which are proposed to be put in place with regard to service delivery between the councils and delegated authority is sought to ensure that the agreements are completed prior to Vesting Day.

2.0 Recommendations

It is recommended that the Shadow Executive:

- a) Approves the Inter Authority Agreement attached at Appendix A and delegates authority to the Monitoring Officer, following consultation with the Leader and the Chief Executive, to make any necessary amendments, finalise and execute the Agreement.
- b) Notes the Governance Arrangements within Appendix A and delegates authority to the Monitoring Officer, following consultation with the Leader and the Chief Executive, to make any necessary amendments, finalise and execute the Agreement.
- c) Delegates authority to the Monitoring Officer, following consultation with relevant Portfolio Holders, to finalise Service Schedules.

3.0 Background and Proposals

- 3.1 In July 2021 the Secretary of State announced his decision, subject to Parliamentary approval, to implement a two unitary pattern of Local Government in Cumbria based

on an East-West geography. The Cumbria (Structural Changes) Order 2022 (SCO) gave effect to that decision and came into force on 18 March 2022.

- 3.2 In September 2022 Cumberland Shadow Executive agreed a number of services and functions which would be hosted. The hosting arrangements were agreed to be either for a short time until any dependencies are resolved to support a future split or hosted in the medium-longer term because splitting is impractical or undesirable from a cost or service delivery perspective.
- 3.3 A hosted service involves an arrangement between the two Councils, with appropriate Member oversight, where one Council employs the staff, holds the related assets and delivers the service needed by both authorities, to agreed service levels. The host authority manages the service on behalf of both Councils, but each Authority retains its statutory responsibilities and duties. A written agreement between the Councils, known as an Inter Authority Agreement, sets out the legal principles and is supported by a joint financial arrangement.

Hosted Services

- 3.4 It has already been agreed by the Shadow Executive that Cumberland Council and Westmorland and Council respectively will be the host Authority for the particular services and functions set out in Appendix B, which also outlines the indicative timeframes for hosting.
- 3.5 It is proposed that those services identified as delivered through the hosting arrangements would be managed through the establishment of a Joint Committee, which would be made up of executive members of both Authorities, and a Joint Officer Board which would make decisions at an operational level and refer strategic and important decisions to the Joint Committee. This is the basis of the Terms of Reference for the Joint Committee set out in the Cumberland Constitution, which was agreed by members of the Shadow Authority on 26th January and is the subject of a separate report to Shadow Executive today.
- 3.6 Terms of reference for the Joint Committee and Joint Officer Board have been included within the agreements and are attached as Appendix B to this report.
- 3.7 To ensure that day to day decisions are able to be made in an efficient and streamlined way, it may be appropriate for individual officers within the authorities to receive powers delegated to them by both Councils. The Council has power to delegate functions to other local authorities through section 101 of the Local Government Act 1972. These are contained within the Inter Authority Agreement.

Inter Authority Agreement

- 3.8 The Inter Authority Agreement is an overarching agreement and includes general, or “boilerplate”, clauses which will apply to all hosted services regardless of whether the Council is host or lead. The agreement is based upon good faith and partnership

between the authorities and is entered into with the aim of continuing to deliver excellent and cost effective services. Key clauses are;

- Length, notice and termination arrangements
- Information, data sharing, data protection and confidentiality;
- Dispute resolution; Insurance and indemnities.

3.9 The agreement will have a commencement date of 1st April 2023 however there is no end date to enable the authorities to continue to deliver services in a collaborative way, should they choose to. In the event that either council wishes to terminate either the entire agreement or simply to remove services from it, there are clauses enabling termination on notice. An exit strategy is included within the Agreement to enable transitional arrangements to be agreed and implemented by the parties.

3.10 The Agreement has a number of Schedules namely:

- Schedule One- List of Functions and Services / Service Strategies
- Schedule Two- Terms of Reference of the Joint Committee
- Schedule Three- Joint Overview and Scrutiny Committee
- Schedule Four- Joint Officer Board
- Schedule Five- TUPE Employment Provisions
- Schedule Six- Data Protection
- Schedule 7 Hosted Contracts.

3.11 The Service Strategies will be a key element of the governance of the shared services and will be used to ensure that services are accountable and are delivering services in line with agreed expectations. Key elements of the Service Strategies are;

- Functions and Services Description;
- Functions (including any retained functions/dependencies of the Recipient Authority or support services to be provided by the Recipient Authority not falling within another Service Strategy);
- Host Authority and Recipient Authority (including Lead Officer);
- Governance including lead officers and requirements for engagement with and decision making by the Recipient Authority and any Function/Service specific review;

- Performance management metric/standards and key performance indicators for joint performance management and review of the Function and Service;
 - Applicable policies;
 - Period to run;
 - Financial Planning, Budget and Financial Recovery (including Budget proportion split, liability split if different and arrangements for approval of demand led expenditure);
 - Service Planning, Performance Standards and Reporting;
 - Staffing;
 - Outsourcing and Contractor arrangements (including PFI) and commissioning plans;
 - Premises and Assets (including approach on disaggregation);
 - IT and Information Assets;
 - Data Protection arrangements; and
 - Disaggregation and continuity of provision subsequent to the termination of the shared service (to include exit planning).
- 3.12 Delegated authority is sought for the Monitoring Officer, following consultation with the relevant Portfolio Holder, to finalise the service schedules. Once agreed it is likely that further amendment or updating will be required, including by the Joint Executive Committee which will consider the schedules as part of its remit. The delegation sought, therefore, includes taking any further decisions or actions that the Monitoring Officer considers to be necessary to agree and update the schedules on an ongoing basis.

Governance Arrangements

- 3.13 As indicated above, the two councils have established a Joint Executive Committee pursuant to section 101(5) of the Local Government Act 1972. The membership and terms of reference for Joint Executive Committee are set out in the Agreement. It is proposed that the councils shall take it in turns to chair the Committee and that, in year 1, Cumberland shall nominate the Chair. This means that Cumberland will also provide legal and democratic support for the first year.
- 3.14 The Authorities have also established a Joint Overview and Scrutiny Committee for the purpose of exercising their functions under section 9F of the Local Government Act 2000 in respect of those responsibilities exercised by the Joint Committee. The membership and terms of reference for this Joint Committee are set out in the

Agreement. It is proposed that Westmorland and Furness will chair the Joint Overview and Scrutiny Committee for Year 1.

- 3.15 The Authorities have set up a Joint Officer Board. The membership and terms of reference for this Board are set out in the Agreement.
- 3.16 A scheme of delegation from the Joint Executive Committee to Officers shall be maintained.
- 3.17 The Authorities agree that they will ensure that their individual schemes of delegation relevant to the Functions and Services and the Hosted Contracts are aligned.

Hosted Contracts

- 3.18 The Inter Authority Agreement sets out the arrangements in relation to Hosted Contracts.

4.0 Consultation

- 4.1. The Structural Change Order requires us to establish two new authorities by 1 April 2023. Consultation on the proposed model of local government was undertaken by national government during the decision-making process leading to this SCO.
- 4.2. Consultation has taken place with the staff and trade Unions.

5.0 Alternative Options

6.0 Implications

Financial, Resources and Procurement

- 6.1 The basis of the budget that is included within the service schedules (and summarised in the financial summary schedule) is the 2023/24 approved annual revenue budget. This will be uplifted where required for agreed inflation and pay award increases. The annual revenue budget for the individual service areas for 23/24 was agreed as part of the revenue budget setting process for each Council.
- 6.2 The costs for each shared service will be monitored on a quarterly basis and reported to the Joint Officer Board. Where the service incurs revenue costs that are above the approved budget both authorities section 151 officers must agree the level of additional funding required in year and follow their own governance arrangements for approval. The agreed split of any additional costs will be consistent with the agreed apportionment of the original budget. Where costs are related to demand/ activity (and separately identified as this in the schedule) any required increase in the budget will

require the relevant Director and section 151 Officer to agree and approve the increase.

- 6.3 If there is a requirement to increase future year's revenue budgets or apply savings to the budget this will be agreed as part of the budget setting process for the following financial year. Both authorities' section 151 officers must agree the changes to the annual budget and follow their own governance arrangements for approval. The agreed split of any agreed changes to the budget will be consistent with the agreed apportionment in the service schedule.
- 6.4 Following the end of each financial year, the Authorities shall reconcile the actual costs of each Function and Service against the agreed budget (as amended). Following agreement of this reconciliation by the Joint Officer Board and Joint Committee, the Recipient Authority or Host Authority (as appropriate) shall make a payment to the other Authority to reflect the outcome of the reconciliation.
- 6.5 All assets have been disaggregated and aggregated as per the section 16 agreement and the responsibilities for maintaining those assets remains with the relevant authority. Where the service schedule determines that assets should be hosted or shared these will be listed and agreed as part of the schedule and any shared responsibilities for maintenance, insurance and relevant associated revenue costs confirmed.
- 6.6 Where there is a capital programme budget relevant to the service area this will be identified in the service schedule. The relevant scheme will be already approved within the 23/24 -27/28 capital programme for the host authority. The schemes are fully funded will have been agreed as part of the disaggregation of capital schemes in the section 16 agreement. Where capital costs are incurred above the approved budget both authorities section 151 officers must agree the level of additional funding required and follow their own governance arrangements for approval. The agreed split of any additional costs will be consistent with the agreed apportionment in the service schedule and approved through the Joint Officers Board and if required through the Joint Members Committee.

Human Resources

- 6.7 Each IAA sets out arrangements for one council to employ the staff required to deliver a service on behalf of the new authorities. Where this arrangement is provided on a temporary basis, until any dependencies are resolved to support a future split, there will likely be a requirement for staff to undergo a further TUPE transfer.

Legal

- 6.8 The legal power to enter into this agreement is set out in sections 101 and 113 of the Local Government Act 1972, section 9EB of the Local Government Act 2000 and the

Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.

- 6.9 Section 101 allows Local Authorities to delegate functions to other local authorities. It is a very common feature of many shared service arrangements. The “receiver” Council chooses to delegate functions to another authority and the “Host” authority agrees to accept the delegation. The authority will then perform the function on behalf of the Receiver authority, even though the Receiver authority remains ultimately responsible for the function.
- 6.10 Section 113(2) of the Local Government Act 1972 provides that an officer whose services are placed by their employing authority at the disposal of the other is to be treated for the purposes of any enactment relating to the other authority’s functions as an officer of that other authority (paragraph 3.6).
- 6.11 By the agreement, the two authorities agree that:
- a. the exercise of responsibility for the discharge and delivery of the executive Functions and Services shall be delegated to the Joint Executive Committee; and
 - b. the relevant Recipient Authority has agreed to and the relevant Host Authority has agreed to discharge and deliver the Functions and Services set out in Schedule 1 to the Agreement.
- 6.12 In respect of the workings and functions of the Joint Executive Committee, their terms of reference include the specific power to delegate any of the functions of the Joint Executive Committee to an officer of either authority.

Health and Sustainability Impact Assessment

- 6.13 Have you completed a Health and Sustainability Impact Assessment? No
- 6.14 If you have not completed an Impact Assessment, please explain your reasons: There are no health and sustainability impacts arising out of the recommendations in this report.

Equality and Diversity

- 6.15 Have you completed an Equality Impact Analysis? No
- 6.16 If you have not completed an Impact Analysis, please explain your reasons: There are no equality impacts arising out of the recommendations in this report.

Contact Officers

Clare Liddle, Monitoring Officer
Liz Morgan Senior Governance Lawyer, Cumbria County Council

Appendices Attached to this Report

Inter Authority Agreement (DRAFT)
Hosted Services with Indicative Timeline

Background Documents Available

None

Dated

2023

CUMBERLAND COUNCIL (1)

and

WESTMORLAND AND FURNESS COUNCIL (2)

**INTER AUTHORITY AGREEMENT
in relation to
Continuing Shared Services and Hosted Contracts**

WORKING DRAFT AS AT 17 MARCH 2023

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DRAFT

THIS AGREEMENT is made the

day of

2023

BETWEEN

- (1) **CUMBERLAND COUNCIL of Cumbria House, 117 Botchergate, Carlisle CA1 1RD;**
- (2) **WESTMORLAND AND FURNESS COUNCIL of South Lakeland House, Lowther Street, Kendal, Cumbria LA9 4DQ;**

Each an “**Authority**” and together “the **Authorities**”

WHEREAS

Pursuant to the Cumbria (Structural Changes) Order 2022 on 1st April 2023

- (A) The County of Cumbria is abolished as a local government area and the Cumbria County Council is wound up and dissolved.
- (B) The Allerdale Borough Council, Carlisle City Council and Copeland Borough Council (the Cumberland Authorities) and the Barrow-in-Furness Borough Council, Eden District Council and South Lakeland District Council (the Westmorland and Furness Authorities) are abolished as local government areas and are wound up and dissolved.
- (C) A new district council to be known as Cumberland is established as the sole principal authority for the non-metropolitan district of Cumberland.
- (D) A new district council to be known as Westmorland and Furness is established as the sole principal authority for the non-metropolitan district of Westmorland and Furness.
- (E) During the shadow period Cumberland Council and Westmorland and Furness Council are each a shadow authority.
- (F) The Authorities are under a duty to take all such practical steps as are necessary or expedient to prepare for the assumption, as Cumberland Council or Westmorland and Furness Council, of local government functions and full local authority powers on 1st April 2023 and to prepare any budgets or plans required by Cumberland Council or Westmorland and Furness Council when those functions are assumed.
- (G) The Authorities have agreed that for varying periods of time the exercise of their duties is best served by way of certain functions and services being discharged and delivered as a number of shared services and that certain former Cumbria County Council contracts should be managed jointly.
- (H) This Agreement sets out the arrangements for an executive joint committee to undertake responsibility for the governance of those Functions and Services.
- (I) This Agreement further sets out the arrangements and general terms on which the Authorities will: administer and exercise responsibility for the discharge and delivery of the Functions and Services by one Authority, acting as the Host Authority, for and on behalf of the other Authority; and manage Hosted Contracts.

IT IS HEREBY agreed as follows –

1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement unless the context otherwise requires the following expressions have the following meanings:

Additional Work means any delivery by the Host Authority in respect of a particular Function and Service that falls outside the Service Strategy.

[Assets means such property, rights and liabilities as is referred to in the Section 16 Agreement (defined further below)]

Agreement means this Agreement comprising the terms and conditions together with the Schedules and Appendices attached hereto.

Commencement Date means the 1st April 2023.

Commissioner means the Information Commissioner (as defined in section 3(8) of the DPA 2018).

Confidential Information has the meaning given in Clause 20.2.

Data Protection Legislation means all applicable data protection and privacy legislation in force from time to time in the United Kingdom (UK) including without limitation the UK GDPR; the Data Protection Act 2018 (**DPA 2018**); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; and the guidance and codes of practice issued by the Commissioner and which are applicable to one or both of the Authorities.

Democratic Services means the democratic services Officers of an Authority.

EIR means the Environmental Information Regulations 2004.

Emergency means:

- (a) the occurrence of one or more events that will cause: any of the Functions and Services; or a material part of any of the Functions and Services; and/or the whole or part of any delivery under the Hosted Contract to be unavailable (or the reasonable anticipation of such occurrence); or
- (b) an event or occurrence which:
 - (i) constitutes an emergency for the purposes of the Civil Contingencies Act 2004; and/or
 - (ii) constitutes an emergency under local and community risk registers.

Existing Claims means a claim made by or against Cumbria County Council in respect of a Function and Service prior to the Commencement Date or relating to the discharge of a Function and Service in the period prior to the Commencement Date.

FOIA means the Freedom of Information Act 2000.

Functions and Services means those shared workings, both hosted or provided and received, as set out at Clause 7 and Schedules 1 and 1A to this Agreement.

Host Authority means either: (a) the Authority designated as the Host Authority in respect of the Functions and Services as detailed in the relevant Service Strategy; or (b) the Authority designated as the Host Authority in respect of a Hosted Contract as detailed in the relevant Hosted Contract Schedule.

Hosted Contract means a contract previously entered into by Cumbria County Council that has transferred to one of the Authorities with effect from the Commencement Date and that both Authorities need to access for the remainder of the Hosted Contract's duration. The Hosted Contracts are further detailed in the Hosted Contract Schedules.

Hosted Contract Schedule means the schedule for each Hosted Contract set out at Schedule 7 of this Agreement as the same may be amended in accordance with the terms of this Agreement.

Intellectual Property Rights means patents, inventions, trade marks, service marks, logos, design rights, rights in goodwill or to sue for passing off, copyright, database rights, domain names, trade or business names, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Joint Executive Committee has the meaning given in Clause 6.1.

Joint Officer Board means the joint board of Officers established in accordance with Clause 6.3.

Joint Overview and Scrutiny Committee has the meaning given in Clause 6.2.

Law means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, retained EU law within the meaning of section 6(7) of the European Union (Withdrawal) Act 2018, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which an Authority is bound to comply.

Leader means the Member holding the position of leader of an Authority.

Lead Officer means an officer of the Host Authority or the Recipient Authority in respect of each Function and Service or Hosted Contract responsible for being the primary point of contact for the other Authority.

Losses means all losses, liabilities, damages, demands, charges, fines, debt/indebtedness, costs, and expenses (including legal and other professional charges and expenses) litigation, settlement, judgement interest and penalties whether arising in contract, tort (including negligence), breach or statutory duty or otherwise and the term "**Loss**" shall be construed accordingly.

Members means the members of the Authorities, and "Member" shall mean a member of an Authority as the context provides.

Monitoring Officer means that officer designated by each of the Authorities as the officer having responsibility for performing the duties imposed by sections 5 and 5A of the Local Government and Housing Act 1989.

Officer means a person appointed to a paid office or employment by an Authority pursuant to section 112 of the Local Government Act 1972 and section 7 of the Local Government and Housing Act 1989.

Personal Data has the meaning set out in the Data Protection Legislation.

Provider means a provider under a Hosted Contract.

Recipient Authority means in the case of either the Functions and Services or a Hosted Contract the Authority that is not the Host Authority.

Section 151 Officer means that officer designated by each of the Authorities as the person having responsibility for the administration of the financial affairs of a relevant authority under section 151 of the Local Government Act 1972.

Section 16 Agreement means the agreement between the Authorities dated 11 2023 entered into pursuant to section 16, Local Government and Public Involvement in Health Act 2007.

Service Strategy means in respect of each of the Functions and Services the document detailing the agreed approach to delivering the relevant Functions and Services as detailed at Schedule 1 of this Agreement as the same may be amended in accordance with the terms of this Agreement.

Special Categories of Personal Data has the meaning set out in the Data Protection Legislation and for the purposes of the Contract shall include information relating to criminal convictions and offences.

UK GDPR has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the DPA 2018.

Working Day means Monday to Friday inclusive but does not include any such days which are bank holidays or public holidays.

- 1.2 Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended extended or re-enacted.
- 1.3 Words importing the singular include the plural words importing any gender include every gender, the words importing persons include bodies corporate and unincorporated; and (in each case) vice versa.
- 1.4 Reference to Clauses and Schedules are references to Clauses and Schedules of this Agreement and any reference to a sub provision is unless otherwise stated a reference to a sub provision of the provision in which the reference appears.
- 1.5 The Clause and Paragraph headings and titles appearing in this Agreement are for reference only and shall not affect its construction or interpretation.
- 1.6 References in this Agreement to “key decision” are to a decision having the characteristics of a key decision as defined in each Authority’s constitution.

2 COMMENCEMENT, TERM AND REVIEW

- 2.1 This Agreement shall come into effect on the Commencement Date and shall continue in force from year to year until terminated in accordance with Clause 26.
- 2.2 The Authorities respective obligations in respect of each Hosted Contract shall continue until the earlier of:
 - 2.2.1 the termination of this Agreement; or
 - 2.2.2 such time as the Hosted Contract has been expired or terminated and all residual obligations and liabilities under the Hosted Contract have been discharged.
- 2.3 Each of the Functions and Services detailed in a Service Strategy shall continue until the earlier of:
 - 2.3.1 the termination of this Agreement;
 - 2.3.2 any date for the disaggregation of the Functions and Services set out in a Service Strategy or otherwise agreed between the Authorities; or
 - 2.3.3 the termination of any Service Strategy in accordance with Clause 26.
- 2.4 The Authorities shall review the Agreement on or before each anniversary of the Commencement Date following which review they may agree to vary the terms of this Agreement in writing by mutual agreement. Such review shall be facilitated through the Joint Officer Board and the Joint Executive Committee in accordance with their respective terms of reference.

- 2.5 Delivery of each of the Functions and Services and each Hosted Contract shall be kept under review by those Officers of each Authority responsible for discharging the functions of the Hosted Authority and the Recipient Authority in accordance with any review and management arrangements detailed in the applicable Service Strategy or Hosted Contract Schedule.
- 2.6 Notwithstanding Clause 2.5, either Authority may request a review of any Functions and Services or Hosted Contract. Such review shall be facilitated through the Joint Officer Board and the Joint Executive Committee in accordance with their respective terms of reference

3 GENERAL PRINCIPLES

- 3.1 Pursuant to Section 101(5) and 113 of the Local Government Act 1972 and to their powers under section 9EB of the Local Government Act 2000 and Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 and any other enabling legislation, the Authorities have agreed that:
- 3.1.1 the exercise of responsibility for the discharge and delivery of the executive Functions and Services shall be delegated to the Joint Executive Committee;
 - 3.1.2 the relevant Recipient Authority has agreed to the discharge and delivery of the Functions and Services set out in Schedule 1 (Shared Functions and Services) of this Agreement by the Host Authority; and
 - 3.1.3 the relevant Host Authority has agreed to discharge and deliver the Functions and Services set out in Schedule 1 (Shared Functions and Services) of this Agreement in accordance with this Agreement and in compliance with all relevant Law.
- 3.2 Those elements of a Function or Service that are to be discharged or delivered by the Host Authority but cannot lawfully be delegated, in full or in part, shall result in the respective Authorities retaining the power to exercise responsibility for such functions and the delegations or reservations pertaining to the relevant Authority's Constitution shall apply.
- 3.3 The Authorities will work together in partnership and in an open, co-operative and collaborative manner for the duration of this Agreement. The Authorities' Members and Officers will work together in order to endeavour to successfully implement the purposes of this Agreement and to fulfil their duties in respect of the Functions and Services as best value authorities pursuant section 3 of the Local Government Act 1999.
- 3.4 Each of the Authorities hereby represents to the other that it has obtained all necessary consents sufficient to ensure any delegation of functions provided for by this Agreement for the purposes of the Functions and Services.
- 3.5 The Authorities commit to share data and knowledge relevant to the Functions and Services where appropriate and in accordance with their duties under Data Protection Legislation and the provisions of this Agreement relating to data protection.
- 3.6 The Authorities shall review the terms of this Agreement in accordance with Clause 2. Any changes to the terms shall only be made by agreement between the Authorities and shall be recorded in writing and signed by the Authorities. Changes shall take effect upon signing and continue in force until termination or any further changes agreed in accordance with this Clause or other part of this Agreement.
- 3.7 Changes to any Service Strategy may be approved by the Joint Executive Committee on recommendation from the Joint Officer Board in accordance with their respective terms of reference.
- 3.8 The Authorities agree that this Agreement is made pursuant to the provisions of section 103 (expenses of joint committees) of the Local Government Act 1972.

4 STATUS OF THE AGREEMENT

4.1 The Authorities agree that this Agreement shall take the form of a legally binding relationship and all mutual commitments between them created by this Agreement shall from the Commencement Date be construed accordingly.

5 AUTHORITIES' OBJECTIVES

5.1 This Agreement has been entered into by the Authorities for the purposes of:

5.1.1 ensuring continuity of the delivery of public services on and after 1st April 2023 in an effective manner; and

5.1.2 ensuring economic and efficient transitional arrangements which will facilitate the disaggregation of public services where appropriate.

5.2 The Authorities are entering into this Agreement in reliance on the exception set out in Regulation 12(7), Public Contracts Regulations 2015 and each acknowledges and agrees that it is:

5.2.1 establishing and implementing a cooperation on the terms set out in this Agreement between itself and the other Authority (each of which is a contracting authority for the purposes of the Public Contracts Regulations 2015) with the aim of ensuring that public services they have to perform are provided with a view to achieving the objectives above and as detailed in the Service Strategies and Hosted Contract Schedules or otherwise agreed jointly through the Joint Executive Committee;

5.2.2 the implementation of such cooperation is governed solely by considerations relating to the public interest; and

5.2.3 neither Authority performs on the open market more than twenty percent (20%) of the activities concerned by the cooperation.

6 GOVERNANCE ARRANGEMENTS

6.1 The Authorities have established an executive joint committee pursuant to section 101(5) of the Local Government Act 1972 (the **Joint Executive Committee**). The membership and terms of reference for Joint Executive Committee are set out at Schedule 1 of this Agreement.

6.2 The Authorities have established a joint overview and scrutiny committee for the purpose of exercising their functions under section 9F of the Local Government Act 2000 and Part 4 (joint exercise of functions) of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 in respect of those responsibilities exercised by the joint committee (the **Joint Overview and Scrutiny Committee**). The membership and terms of reference for this joint committee are set out at Schedule 3 of this Agreement.

6.3 The Authorities have set up a Joint Officer Board. The membership and terms of reference for this Board are set out at Schedule 1 of this Agreement.

6.4 A scheme of delegation from the Joint Executive Committee to Officers shall be maintained.

6.5 The Authorities agree that they will ensure that their individual schemes of delegation relevant to the Functions and Services and the Hosted Contracts are aligned.

6.6 During each financial year, the Joint Executive Committee and the Joint Overview and Scrutiny Committee will be hosted respectively by the Authority whose Member holds the chair of the relevant committee in accordance with the provisions of the terms of reference.

7 FUNCTIONS AND SERVICES

- 7.1 The Functions and Services subject to this Agreement shall be as set out in the list of Functions and Services at Schedule 1 or as otherwise agreed by the Joint Executive Committee from time to time.
- 7.2 Each Function and Service shall be delivered in accordance with the terms of this Agreement and the relevant Service Strategy. Each Service Strategy shall contain as appropriate further detail, agreement, plans and explanatory comment as to:
- 7.2.1 Functions and Services Description;
 - 7.2.2 Functions (including any retained functions/dependencies of the Recipient Authority or support services to be provided by the Recipient Authority not falling within another Service Strategy);
 - 7.2.3 Host Authority and Recipient Authority (including Lead Officer);
 - 7.2.4 Governance including lead officers and requirements for engagement with and decision making by the Recipient Authority and any Function/Service specific review;
 - 7.2.5 Performance management metric/standards and key performance indicators for joint performance management and review of the Function and Service;
 - 7.2.6 Applicable policies;
 - 7.2.7 Period to run;
 - 7.2.8 Financial Planning, annual financial Budget (revenue and capital) and Financial Recovery (including Budget proportion split, liability split if different and arrangements for approval of demand led expenditure);
 - 7.2.9 Service Planning, Performance Standards and Reporting;
 - 7.2.10 Staffing;
 - 7.2.11 Outsourcing and Contractor arrangements (including PFI) and commissioning plans;
 - 7.2.12 Premises and service specific assets utilised in Function and Service (including approach on future disaggregation of Function and Service);
 - 7.2.13 IT and Information Assets;
 - 7.2.14 Data Protection arrangements; and
 - 7.2.15 Disaggregation and continuity of provision subsequent to the termination of the shared service (to include exit planning).
- 7.3 The Service Strategies as at the Commencement Date are set out at Schedule 1 and are deemed to be effective from the Commencement Date and the Authorities shall discharge their respective obligations in accordance with the adopted Service Strategy. Changes to the Service Strategies may be approved by the Joint Executive Committee at any time provided that such changes are within the budget adopted for the relevant Function and Service in accordance with this Agreement. Any amendments to the Service Strategies agreed by the Joint Executive Committee are deemed to form part of this Agreement and the Authorities shall discharge their respective obligations in accordance with the revised Service Strategy.

[Placeholder – finance position to be confirmed]

- 7.4 The delivery of the Functions and Services shall be monitored by the Authorities jointly including through the Joint Executive Committee and the Joint Officer Board against the performance metrics, key performance indicators and standards set out in the Services Strategies and as developed jointly through the Joint Executive Committee. Where issues in delivery arise then the Authorities shall, through the Joint Executive Committee and the Joint Officer Board, develop and agree improvement plans. Once adopted by the Joint Executive Committee, the Authorities shall discharge their respective obligations under this Agreement and the Service Strategies so as to facilitate improvement in line with the improvement plan.

8 HOSTED CONTRACTS

- 8.1 In respect of each Hosted Contract, the Host Authority shall:
- 8.1.1 manage the Hosted Contract in accordance with its terms and the management requirements set out in the relevant Hosted Contract Schedule and provide such suitably qualified and experienced personnel as are reasonably required to discharge its obligations;
 - 8.1.2 procure access to the Hosted Contract by the Recipient Authority and delivery by the Provider for the benefit of the Recipient Authority in accordance with the requirements set out in the relevant Hosted Contract Schedule;
 - 8.1.3 submit such invoices, management and performance information to the Recipient Authority as is detailed in the relevant Hosted Contract Schedule;
 - 8.1.4 pay all such sums received from the Recipient Authority (where relevant) that are due to the Provider; and
 - 8.1.5 not act or omit to act in any way which would place the Host Authority in breach of the Hosted Contract.
- 8.2 In respect of each Hosted Contract, the Recipient Authority shall:
- 8.2.1 undertake such activities or provide such dependencies as are detailed in the relevant Hosted Contract Schedule;
 - 8.2.2 only engage directly with the Provider in respect of delivery under the Hosted Contract to the extent provided for in the relevant Hosted Contract Schedule;
 - 8.2.3 not act or omit to act in any way which would place the Host Authority in breach of the Hosted Contract;
 - 8.2.4 provide all such information and assistance to the Host Authority as is stated in the relevant Hosted Contract Schedule or otherwise reasonably required by the Host Authority to enable the Host Authority to discharge its obligations under the Hosted Contract;
 - 8.2.5 pay all such sums properly due to the Provider in respect of the delivery to the Recipient Authority by the Provider under the Hosted Contract to the Recipient Authority as determined in accordance with the relevant Hosted Contract Schedule including the timescale for such payment. Payment to be made to the Host Authority or, where permitted by the Hosted Contract Schedule, the Provider direct; and
 - 8.2.6 [pay all such sums properly due to the Host Authority in respect of its management of the Hosted Contract as determined in accordance with the relevant Hosted Contract Schedule including the timescale for such payment.]
- 8.3 The Authorities agree that save where the contrary is expressly stated in the relevant Hosted Contract Schedule, any decision to extend or terminate a Hosted Contract requires the agreement of both Authorities.
- 8.4 The Authorities agree that:
- 8.4.1 subject to Clause 8.4.2, any liability incurred by the Host Authority under the Hosted Contract shall be shared between the Authorities in such proportion as is detailed in the Hosted Contract Schedule;
 - 8.4.2 where liability is incurred under the Hosted Contract that relates solely to one Authority's actions or omissions (which includes where the Host Authority acts in breach of the requirements of this Agreement relating to Hosted Contract) or to any delivery by the Provider that relates solely to one Authority then that relevant Authority shall be responsible

for the entirety of the liability incurred unless agreed otherwise between the Authorities;
and

8.4.3 any sums due from the Provider under the Agreement shall be split in the proportions referred to in Clause 8.4.1 save where the sum clearly relates to just one Authority.

8.5 Each Authority indemnifies and holds harmless the other in full against all liabilities attributable to it pursuant to Clause 8.4 and all Losses suffered or incurred by the other Authority arising out of or in connection with breach by the indemnifying Authority of the provisions of this Agreement relating to Hosted Contract and/or the requirements of the Hosted Contract Schedule.

8.6 The Hosted Contract Schedules may be changed by agreement between the Authorities (including acting by their respective Lead Officers).

9 INTEGRATION OF STAFF

9.1 The posts within each Function and Service are detailed in the relevant Service Strategy. The Host Authority will not advertise new posts within the Function and Service without prior agreement of the Recipient Authority (even if the cost is within the agreed budget).

9.2 The Authorities will seek to assist one another by making appropriate staff available during staffing shortages, absences in order to facilitate joint working and efficiency.

9.3 The Authorities agree that they each shall comply with all of its obligations regarding the transfer of staff in accordance with Schedule 5.

9.4 The Authorities agree that where any Officer of either Authority is placed at the disposal of the other for the purposes of this Agreement then the provisions of section 113 of the Local Government Act 1972 shall apply and the employing Authority undertakes that it shall have duly consulted such Officers prior to placing them at the other Authority's disposal and that the employing Authority shall continue to treat such officers as its own employed staff.

9.5 A written record of which Officers shall be treated as seconded under section 113 of the Local Government Act 1972 and the purposes of their secondment shall be agreed between the Authorities from time to time.

9.6 To the extent the staff deployed in the Functions and Services are occupy a shared post between the Authorities then the relationship between the Authorities in respect of such shared posts is detailed in a separate agreement entered into between the Authorities.

10 POLICIES, PROCEDURES AND MEETINGS

10.1 With effect from the Commencement Date the Authorities agree that the relevant policies and procedures of the former Cumbria County Council or any different policies and procedures agreed between the Authorities shall apply to the relevant Functions and Services until changed by agreement of the Authorities or, where falling within its authority, the Joint Executive Committee. The Authorities agree to align policies and procedures as far as is practicable in relation to the discharge and delivery of the Functions and Services and shall consult with each other prior to making any change to such aligned policies and procedures.

10.2 In developing new policies in relation to the Functions and Services, the Authorities agree to consult each another and to develop a single agreed policy wherever possible to be submitted to the Joint Executive Committee for consideration and adoption.

10.3 The Authorities shall endeavour to develop and utilise an aligned template for use by the Joint Executive Committee, Joint Overview and Scrutiny Committee and Joint Officer Board.

11 LIMITATION OF LIABILITY AND INDEMNITIES

[NOTE – Clause 11 is subject to further review by the insurers.]

- 11.1 Notwithstanding any other provision of this Agreement, the Authorities do not limit or exclude their liability for:
- 11.1.1 death or personal injury caused by its negligence (for the avoidance of doubt 'personal injury' shall include injury caused by sexual, emotional or physical abuse);
 - 11.1.2 fraud or fraudulent misrepresentation;
 - 11.1.3 breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
 - 11.1.4 any liability to the extent it cannot be limited or excluded by Law.
- 11.2 The Authorities shall at all times take reasonable steps to minimise and mitigate any Loss for which they are entitled to bring a claim against the other Authority pursuant to this Agreement.
- 11.3 Subject to Clauses 11.16, 11.20, 11.21 and 11.22, the Authorities agree that any Losses relating to the Functions and Services shall be shared between them in accordance with the proportionate budget split set out in the relevant Service Strategy [save in the case of Existing Claims which will be dealt with under the terms of the Section 16 Agreement].
- 11.4 Other than those Losses covered by the insurances provided by the Authorities under Clause 11.5 and subject to Clause 11.3, each Authority shall indemnify the other against all Losses whatsoever in respect of or in any way arising out of or in connection with the discharge of the Function and the delivery of the Services or any part of them or other work carried out pursuant to this Agreement or their respective obligations in respect of the Hosted Contracts.
- 11.5 The Authorities shall each ensure that they effect, maintain and notify each other annually of adequate insurance cover in respect of:
- 11.5.1 any property held by it for the purposes of this Agreement;
 - 11.5.2 employers' liability;
 - 11.5.3 public liability of **[£ million]**;
 - 11.5.4 public officials liability;
 - 11.5.5 professional indemnity; and
 - 11.5.6 any other insurances sufficient to cover all of their obligations under this Agreement.
- Each Authority shall indemnify the other against Loss sustained as a result of breach of this Clause.
- 11.6 Either Authority may self-insure for all insurances except those at clause 11.5.2 and 11.5.3 if the other Authority agrees in writing.
- 11.7 Each Authority must also ensure that any of its sub-contractors that are providing any or all of the Services on its behalf take out and maintain equivalent insurance to levels of cover as required by the Authorities.
- 11.8 No Authority shall take any action or fail to take any reasonable action or (insofar as it is reasonably within its power) allow anything to occur (including a failure to disclose any fact) which would entitle any insurer to refuse to pay any claim under an insurance policy in which that Authority is assured, a co-insured or an additional person or which may make such a claim wholly or partly repayable.
- 11.9 Each Authority shall provide to the others on request:

- 11.9.1 Copies of insurance policies required to be maintained under this Clause 11 ; and
- 11.9.2 Evidence that the premiums under all insurances have been paid and that the insurances are in full force and effect in accordance with the requirements of this Clause 11.
- 11.10 The Authorities shall work in co-operation during the term the Agreement to seek to align their respective insurance arrangements.
- 11.11 The Host Authority shall from the Commencement Date institute and defend all such claims or legal proceedings as they find reasonable to do so arising out of or in connection with the discharge of the Function and the delivery of the Services for the Recipient Authority PROVIDED ALWAYS that:
 - 11.11.1 where the claims or legal proceedings are covered by full indemnity and cover under the insurances of the Host Authority the Host Authority shall consider any advice offered by the Recipient Authority in relation to the prosecution, defence, compromise or settlement of any proceedings taken or defended in accordance with this Clause 11.11.1 to which the Recipient Authority is a party in the High Court of Justice the Court of Appeal or the Supreme Court but the Host Authority shall not be obliged to take any step or any action that may compromise any claim under any insurance held by it; and
 - 11.11.2 where the claims or legal proceedings do not fall within Clause 11.11.1 and the Recipient Authority (either directly or through its own insurances) has potential liability then the prosecution, defence, compromise or settlement of any proceedings to which the Recipient Authority is a party in the High Court of Justice the Court of Appeal or the Supreme Court or where it is not a party but pursuant to this Agreement shall be responsible for a proportion of any costs or liability associated with the claim or legal proceedings shall be undertaken in agreement with the Recipient Authority.
- 11.12 The Authorities acknowledge that on the Commencement Date all Existing Claims in respect of each Function and Service have vested in the Host Authority pursuant to the Section 16 Agreement. The Host Authority shall be responsible for instituting and defending all such claims or legal proceedings in respect of the Existing Claims that relate to the relevant Function and Service. The provisions of Clause 11.11 shall apply to claims or legal proceedings (even where commenced prior to 1 April 2023) in respect of the Existing Claims save where the Authorities have agreed alternative provisions for managing such Existing Claims under the Section 16 Agreement.
- 11.13 The Authorities shall cooperate with each other in relation to Existing Claims and any other claims falling within Clause 11.11 (including in the sharing of information).
- 11.14 The Host Authority shall use its reasonable endeavours to discharge the Function and deliver the Services in such a way as to minimise third party claims for compensation damages or otherwise for any legal liability arising out of or in connection with the discharge of the Function and delivery of the Services through the negligence, default or neglect of the Host Authority.
- 11.15 The Authorities shall (including through the Joint Officer Board and Joint Executive Committee) performance manage the delivery of the Functions and Services in accordance with the performance management and key performance indicators set out in each Service Strategy so as to secure compliance with their respective functions and statutory obligations and so as to minimise the risk of Losses arising.
- 11.16 Neither Authority shall be liable in tort to the other Authority for any negligent act or omission arising out of or in connection with the discharge of the Function and the delivery of the Services and the only remedy of an Authority is under this Agreement. Each Authority shall procure that no agent, contractor or Officer of that Council brings a claim in tort or otherwise against the other.
- 11.17 In the event of failure by either Authority to reasonably comply with the requirements of this Agreement which results in the other Authority incurring additional expenditure then the Authority at fault shall reimburse the other Authority for the reasonable expenditure so incurred. For the purposes of this

Clause 11.15 the Authority at fault shall be provided with evidence of the costs incurred by the other Authority as a result of such failure.

- 11.18 Any indemnity under any provision of this Agreement shall be without prejudice to any indemnity by the same Authority under any other provision of this Agreement.
- 11.19 If either Authority receives any notice, demand, letter or other document concerning any claim for which it appears that said Authority is or may become entitled to be indemnified under this Agreement, that Authority shall notify the other Authority in writing as soon as reasonably practicable and in any event within 2 Working Days of its receipt by the first Authority.
- 11.20 Where either Authority pays to the other an amount in respect of an indemnity and the Authority receiving said indemnity subsequently recovers a sum which is directly referable to the fact, matter, event or circumstances giving rise to the claim under the indemnity the Authority who recovers the sum shall immediately repay the other Authority the lesser of:
- 11.20.1 the sum recovered less any out-of-pocket costs and expenses properly incurred by the Authority in recovering the sum; or
 - 11.20.2 the amount paid to the Authority by the other Authority in respect of the claim under the relevant indemnity.
- 11.21 There is no obligation on an Authority to pursue a recovery under Clause 11.18. The other Authority is repaid by the first Authority only to the extent that the amount of recovery aggregated with the amount paid by the other Authority exceeds the first Authority's Losses.
- 11.22 Each Authority shall indemnify the other Authority from and against all liability for any of the following which arise out of, or in consequence of, the obligations under this Agreement including but not limited to:
- 11.22.1 breach of an Authority of its own supplier contracts relevant to the Functions and Services;
 - 11.22.2 breach of an Authority of the terms of any other Authority's supplier contracts relevant to the Functions and Services.
- 11.23 Each Authority shall indemnify the other from and against all liability for any breach by the contracting Authority of the obligations under any supplier contracts arising out of or in consequence of any non- or part-performance, acts, defaults, omissions, breaches and negligence of an Authority of any obligation in the supplier contract.
- 11.24 An Authority shall not be responsible or be obliged to indemnify any other Authority for:
- 11.24.1 any liability which arises as a direct result of a Authority acting on the instructions of the other Authority (to the extent that the other Authority is entitled to give such instructions); or
 - 11.24.2 any injury, loss damage, cost and expense caused by the negligence, wilful misconduct or a breach of this Agreement by the other Authority or an agent, contractor or Officer of the other Authority.

12 MEMBER AND OFFICER LIABILITY

- 12.1 When acting as a member of the Joint Executive Committee or Joint Overview and Scrutiny Committee, the Members shall be deemed to be working on behalf of their own Authority even where the particular matter under consideration relates to or also relates to the other Authority.
- 12.2 When working in respect of the Functions and Services, as a member of the Joint Officer Board or otherwise pursuant to or in furtherance of this Agreement, Officers shall be deemed to be working on

behalf of their employing Authority, and made available and working on behalf of the other Authority under Section 113 of the Local Government Act 1972.

- 12.3 In consequence of this Clause, both Members and Officers shall be treated as falling within the statutory immunity provided by Sections 265 of the Public Health Act 1875 and 39 of the Local Government (Miscellaneous Provisions) Act 1976.

13 PREMISES

- 13.1 The Authorities acknowledge that as at the Commencement Date and pursuant to the terms of the Section 16 Agreement, each Authority owns and is responsible for such premises (including such fixtures, fittings, furniture and contents as are detailed in the Section 16 Agreement) owned by Cumbria County Council immediately prior to the Commencement Date as is within their respective administrative areas.
- 13.2 The Recipient Authority shall make available as required and as agreed by the Authorities from time to time (including as detailed in the Service Strategy) working space and associated facilities and services (including internet connection) to facilitate remote access to the Host Authority to accommodate the number of Officers and any Host Council contractors' staff necessary for the discharge of the Function and the delivery of the Services to be performed at the Recipient Authority's locations in accordance with this Agreement.
- 13.3 Notwithstanding any other agreement between the Authorities with regard to access to their respective premises, the Recipient Authority hereby grants a licence to the Host Authority to allow any of the Host Authority's Officers or the Host Authority's contractors to enter the Recipient Authority's offices for the purposes only of discharging the Function and delivering the Services and to utilise such associated services and facilities as shall be provided from time to time in accordance with this Clause. Such licences shall expire on the earlier of the termination of this Agreement or, where such premises relate only to certain Functions and Services, the date on which those Functions and Services cease to be incorporated within this Agreement.
- 13.4 The Authorities agree that no charge shall be made for the provision of such accommodation, facilities and services unless subsequently agreed between the Authorities and approved by the Joint Executive Committee.
- 13.5 The Host Authority shall, and shall procure that its Officers and contractors shall, comply with the Recipient Authority's policies and procedures relating use of the premises and the Recipient Authority's reasonable instructions including as to health and safety compliance. The Host Authority is responsible for all equipment brought onto the Recipient Authority's premises and shall procure its removal as required including when the licence expires.

14 ASSETS

- 14.1 The Authorities acknowledge that on the Commencement Date and pursuant to the Section 16 Agreement, all Assets (excluding any Assets that form part of the premises in accordance with Clause 13.1) relating solely to a particular Function and Service held by Cumbria County Council immediately prior to the Commencement Date will be disaggregated and the Recipient Authority shall transfer its proportion of its Assets to the Host Authority on 1st April 2023 as outlined in the Section 16 Agreement.
- 14.2 The Authorities shall agree from time to time and as required the utilisation of or the transfer to the Host Authority from the Recipient Authority of any Assets, not falling within Clause 14.1, belonging to the Recipient Authority for the purpose of the discharge of the Function and the delivery of the Services.
- 14.3 The transfer or utilisation of any Assets under this clause shall be on such terms as are agreed by the Authorities and approved by the Joint Executive Committee.
- 14.4 On the termination of this Agreement or, if earlier, any Function and Service ceasing to fall within this Agreement, then the Host Authority shall transfer to the Recipient Authority such proportion of the

Assets used in the delivery of the Function and Service in accordance with such arrangements as are detailed in the Service Strategy or otherwise agreed between the Authorities.

- 14.5 The Host Authority remains responsible during the period that it retains or uses Assets under this Clause 14 for the maintenance, repair and replacement of the Assets in accordance with the agreed budget.

15 ICT AND EQUIPMENT

- 15.1 Each Authority shall cooperate with each other to make technical specifications available to each other as necessary to ensure the continuous discharge of the Function and the delivery of the Services and shall take appropriate steps to protect against unauthorised access tampering or systems failure of each other's ICT systems.
- 15.2 From the Commencement Date the Authorities shall ensure that all their Officers engaged in the discharge of the Functions and the delivery of the Services shall have access to all of the Authorities' data as is necessary for the discharge of the relevant Function and the delivery of the relevant Service at the Authorities' offices (and remotely) but shall not have access to any of the Authorities' data which is not relevant to the provision of the Function or the delivery of the Services subject always to compliance with the provisions of this Agreement relating to data protection.
- 15.3 The Authorities agree that all Officers or contractors will comply with their respective security policies and shall undertake training as necessary and that appropriate security badges to gain entry to accommodation at the Authorities' offices shall be provided to all Officers as appropriate.

16 SUPPORT SERVICES AND DEPENDENCIES

- 16.1 The Recipient Authority shall:
- 16.1.1 provide to the Host Authority such administrative and support services in connection with the discharge of the Function and the delivery of the Services; and
- 16.1.2 discharge such retained functions or dependencies relevant to the discharge of the Functions and the delivery of the Services,

as are detailed in the Service Strategy or otherwise agreed and on such terms as may be agreed by the Authorities and approved by the Joint Executive Committee from time to time.

17 PROCUREMENT SERVICES

- 17.1 The Host Authority with the agreement of the Recipient Authority and the approval of the Joint Executive Committee (or approval under delegated authority from the Joint Executive Committee) may procure any contract as may be required for the purpose of the discharge of the Functions and the delivery of the Services.
- 17.2 The costs of any procurement shall be shared equally by the Authorities unless otherwise agreed (including in any Service Schedule) to the extent that such costs are not factored into the agreed budget already.
- 17.3 Any procurement by the Host Authority shall comply with the Host Authority's procurement rules and procedures and all relevant procurement Law.
- 17.4 All contracts entered into by the Host Authority on behalf of the Recipient Authority shall:
- 17.4.1 be made for the benefit of both Authorities and any new supplier or organisation to which the discharge of the Functions and the delivery of the Services may in the future be transferred;

- 17.4.2 include provision to facilitate the splitting of the contract between the Host Authority and the Recipient Authority where the relevant Functions and Services cease to fall within this Agreement;
 - 17.4.3 indemnify the Recipient Authority and any new supplier or organisation to which the discharge of the Functions and the delivery of the Services may in the future be transferred; and
 - 17.4.4 be supplier contracts.
- 17.5 The Authorities acknowledge that under any supplier contract:
- 17.5.1 the contracting Authority is under an obligation to the supplier that the contracting Authority shall not be relieved of, or excused from, any responsibility, liability or obligation under this Agreement by directing the supplier to carry out services or provide goods for the Authorities;
 - 17.5.2 the contracting Authority is under an obligation to the supplier that the contracting Authority shall, as between itself and the supplier be responsible for the performance, acts, defaults, omissions, breaches and negligence of the other Authority;
 - 17.5.3 that all reference in the supplier contract to any act, default, omission, breach or negligence of the contracting Authority shall be deemed to include any such non-performance, act, default, omission, breach or negligence of the other Authority; and
 - 17.5.4 the contracting Authority acknowledges to the other Authority that it will hold any money and all damages it receives from the Supplier on trust for the Authorities.
- 17.6 The contracting Authority and the other Authority shall, and the contracting Authority shall procure that supplier shall, at all times act in a spirit of mutual trust and co-operation towards one another.

18 INTELLECTUAL PROPERTY AND BRANDING

- 18.1 No licence to use any Intellectual Property Rights is granted or implied by this Agreement except the rights expressly granted in this Agreement and nothing in this Agreement is intended to transfer to the Host Authority any Intellectual Property Rights owned by the Recipient Authority as at the Commencement Date.
- 18.2 Each Authority grants to the other an irrevocable, non-exclusive, royalty free licence to copy and use for the purpose of the Function and the Services all materials in which it has Intellectual Property Rights but this licence is not extended to:
 - 18.2.1 copying or using those materials other than in connection with Function and the Services;
 - 18.2.2 granting any other person the right to copy or to use those materials;
 - 18.2.3 selling, transferring or otherwise disposing of or granting rights in those materials;
 - 18.2.4 any materials in which it does not own the Intellectual Property Rights.
- 18.3 Where an Authority is not the owner of the Intellectual Property Rights in material required to be provided to the other Authority for the purpose of the Function and the Services the Authority providing the material shall obtain all necessary consents to provide the material from the owner of the Intellectual Property Rights in said material.
- 18.4 Each Authority shall indemnify and hold harmless the other Authority to whom any materials are provided under this clause against any liability or damages (including costs) that may be awarded or agreed to be paid to any third party because of a claim or action that the normal operation, possession

or use of the materials by the Authority to whom the materials have been provided infringes the Intellectual Property Rights of that third party.

- 18.5 The Authorities agree to promptly notify each other in writing of any infringement or potential infringement of their own or each other's or a third party's Intellectual Property Rights in connection with the Function and / or the Services of which it becomes aware.
- 18.6 All or any Intellectual Property Rights in materials developed for and / or in connection with the Function and the Services shall vest in the Authority who developed the material but shall be for the benefit of both Authorities.
- 18.7 The Host Authority shall on expiry or termination of this Agreement for any reason grant to the Recipient Authority a non-exclusive perpetual revocable royalty-free licence to use and copy materials in the Intellectual Property Rights which vest in the Host Authority for the purposes of providing the Function and delivering the Services to the Recipient Authority.
- 18.8 In respect of each Function and Service, the branding and logos for the Function and Service detailed in the relevant Service Strategy or otherwise agreed through the Joint Executive Committee shall be utilised by the Authorities. The Intellectual Property Rights in any such branding and logos shall be held by the Host Authority and Clause 18.2 above applies in respect of a licence to the Recipient Authority provides always that such licence shall be perpetual and extend beyond the life of this Agreement unless otherwise agreed by the Authorities.

19 COMPLAINTS HANDLING

- 19.1 Complaints from the public or any third parties relating to the discharge of the Function and the delivery of the Services shall be handled in accordance with the Host Authority's corporate complaints procedure or such joint procedure that may be adopted where the complaints function of the Authorities falls within this Agreement. Where the Recipient Authority receives a complaint that falls within this Clause 19.1, then the Recipient Authority shall forward the complaint to the Host Authority for resolution.
- 19.2 All such complaints and how they have been resolved shall be notified to the Recipient Authority following receipt and resolution by the Host Authority where the complaint concerns the discharge of the Function or the delivery of the Service for the Recipient Authority. The Recipient Authority and Host Authority shall cooperate in the resolution of all complaints that are received in respect of the discharge of the relevant Function and the delivery of the relevant Services where the complaint concerns discharge and delivery for the Recipient Authority. The Host Authority shall have regard to any comments raised by the Recipient Authority on a complaint falling within this Clause 19.2 prior to determining the resolution.
- 19.3 Complaints relating to the discharge of the Function and the delivery of the Services from Officers or Members of the Authority receiving the complaint shall be reported to and investigated by the [Joint Officer Board / Joint Executive Committee] or such other Officer as is considered appropriate by the Host Authority or as agreed with the Officer or Member.
- 19.4 The Authorities shall co-operate fully with each other in responding to any legal proceedings or enquiries in the course of investigations carried out by the Local Government and Social Care Ombudsman the Information Commissioner, any police, law enforcement or regulatory body or any other regulator relevant statutory body or statutory officer which shall include the Monitoring Officers (including Member standards complaints) and s151 Officers of the Authorities.

20 CONFIDENTIAL INFORMATION AND PUBLICITY

- 20.1 The Authorities shall at all times use their reasonable endeavours to keep confidential (and to procure that their respective employees agents consultants and sub-contractors shall keep confidential) all Confidential Information concerning the Functions and Services or the business and affairs of the other Authority which may now or at any time hereafter be in its possession and shall subject to Clause 22

not disclose it except with the consent of the other Authority, such consent not to be unreasonably withheld.

- 20.2 For the purpose of this Agreement “**Confidential Information**” means any information imparted to any Authority or their employees agents consultants or sub-contractors (“**the Receiving Authority**”) which was imparted to the Receiving Authority on the basis that it is to be kept confidential or would by its nature normally be regarded as being confidential or which to the knowledge of the Receiving Authority was obtained by another Authority on the basis that it was to be kept confidential or is of commercial value in relation to the Functions and Services but shall not include any information which is for the time being in the public domain otherwise than by reason of its wrongful disclosure by the Receiving Authority.
- 20.3 This Clause shall continue without limit of time and shall survive the termination of this Agreement.
- 20.4 This Clause shall not prevent the disclosure of any Confidential Information relating to the Functions and Services which is reasonably disclosed for the furtherance of the Functions and Services or the promotion of the Functions and Services provided that the Authority or person disclosing the information takes all steps that are commercially practicable to preserve the confidentiality of the information and shall not prevent the disclosure of any Confidential Information where required by Law.
- 20.5 An Authority shall not issue any press or other media release publicity concerning or affecting the Functions and Services unless previously agreed in advance with the other Authority.
- 20.6 Subject to this Clause any formal statements or communications to Officers and/or Members concerning the Functions and Services shall be agreed between the Authorities in advance.
- 20.7 This Clause does not apply to the circulation of minutes, the routine reporting of decisions or requests for information or action to be taken where both Authorities shall comply with the relevant access to information legislation applicable to local authorities.

21 COMPLIANCE WITH LAWS

- 21.1 The Authorities shall at all times comply with all Laws including but not limited to the Data Protection Legislation and will, where appropriate maintain a valid and up to date registration or notification under such Laws.
- 21.2 Each Authority shall indemnify and keep indemnified the other Authorities against all Losses incurred by the other Authorities in respect of any breach of this Clause by an Authority and/or any act or omission of any sub-contractor.

22 FREEDOM OF INFORMATION

- 22.1 Each Authority acknowledges that the other Authority is subject to the requirements of the FOIA and the EIR and each Authority shall where reasonable assist and co-operate with the other Authority (at their own expense) to enable the other Authority to comply with these information disclosure obligations.
- 22.2 Where an Authority receives a request for information under either the FOIA or the EIR in relation to information which it is holding on behalf of the other Authority in relation to the Functions and Services, it shall:
 - 22.2.1 transfer the request for information to the other Authority as soon as practicable after receipt and in any event within two Working Days of receiving a request for information;
 - 22.2.2 provide the other Authority with a copy of all information in its possession or power in the form that the Authority requires within ten Working Days (or such longer period as the Authority may specify) of the Authority requesting that information; and

22.2.3 provide all necessary assistance as reasonably requested by the other Authority to enable that Authority to respond to a request for information within the time for compliance set out in the FOIA or the EIR.

22.3 Where an Authority receives a request under FOIA or EIR which relates to the Functions and Services, it shall notify the other Authorities and afford them an opportunity to make any comments or representations in respect of the disclosure of the information sought. The other Authorities shall respond within 5 Working Days of receipt of this notification. The Authority responding to the request shall take into account any such comments or representations in so doing and shall not respond to the request until the 5 Working Day response period referred to above has passed.

23 DATA PROTECTION

23.1 The Authorities shall comply with their obligations under the Data Protection Legislation as they relate to their respective activities under this Agreement.

23.2 The Authorities agree that where and to the extent their relationship in respect of either the Functions and Services or a Hosted Contract in respect of Personal Data as detailed (as applicable) in the Service Strategy or the Hosted Contract Schedule is that of:

23.2.1 data controller and data processor then the provisions of Part A of Schedule 6 shall apply subject to the requirements set out in (as applicable) the Service Strategy or the Hosted Contract Schedule;

23.2.2 independent data controllers then the provisions of Part B of Schedule 6 shall apply subject to the requirements set out in (as applicable) the Service Strategy or the Hosted Contract Schedule; and/or

23.2.3 joint data controllers then the provisions of Part C of Schedule 6 shall apply subject to the requirements set out in (as applicable) the Service Strategy or the Hosted Contract Schedule.

23.3 Notwithstanding Clause 23.2, any further or specific arrangements relating to the management of Personal Data set out or referred to in the Service Strategy or Hosted Contract Schedule (as applicable) shall apply.

23.4 The Host Authority shall procure that the Provider complies with the provisions of the Hosted Contract relating to data protection as detailed in the Hosted Contract Schedule.

24 CONFLICTS

24.1 If any situation arises where there is a potential or actual conflict of interest or a perceived conflict of interest between the Authorities, they shall:

24.1.1 Draw such conflict to the notice of the Monitoring Officer with responsibility for the Authority concerned and the Monitoring Officer with responsibility for the other Authority in writing;

24.1.2 Remove themselves from all aspects of the decision-making process in relation to the situation;

24.1.3 Provide the Monitoring Officers with such resources as they require to ensure that the interests of each Authority are appropriately represented including taking independent professional advice or seeking independent third Authority support if appropriate.

24.2 On receipt of notice under Clause 24.1 each Monitoring Officer shall immediately:

24.2.1 represent only the interests of the Authority for which they have responsibility to the best of his or her ability;

- 24.2.2 notify the Section 151 officer of the circumstances of the conflict;
- 24.2.3 ensure that officers instructed to provide them with support are clearly informed that a conflict between the two (or more) Authorities exists and are notified to which Authority the Monitoring Officer is reporting; and
- 24.2.4 ensure that officers are not or might not be compromised in any way in performing their duties on behalf of any of the Authorities;

24.3 If it becomes apparent to a Monitoring Officer acting on receipt of a notice under this Clause that the interests of the Authority for which he or she has responsibility or the position of any officer supporting him or her will or might be compromised the Monitoring Officer shall immediately make arrangements for independent professional advice or independent third Authority support.

24.4 The Authorities shall ensure that procedures and safeguards are in place to identify such conflicts at an early stage.

24.5 The Authorities shall keep a written record of any such conflicts which have been identified and how such conflicts have been resolved.

25 RESOLUTION OF BREACHES AND DISPUTES

25.1 At any time an Authority (“the **First Authority**”) may serve on other Authority (“the **Second Authority**”) a “**Default Notice**”, alleging that that Authority has failed to comply with its obligations under this Agreement, setting out any suggested remedial action and any damage which the First Authority has or is likely to suffer as a result of the alleged failure.

25.2 An Authority in receipt of a Default Notice shall have 14 days within which to serve on the First Authority a “**Counter-Notice**”, setting out in respect of every matter contained in the Default Notice proposals for the remediation of the alleged failure and making good any loss which the First Authority may have suffered or may suffer as a result of the failure or the reasons why that alleged failure is disputed.

25.3 Within 14 days of receipt of a Counter-Notice, the First Authority shall send to the Second Authority a “**Notice of Acceptance**” of any proposals contained in the Counter-Notice in so far as those proposals are accepted by the First Authority, and may send a “**Notice of Dispute**” in so far as no proposal satisfactory to the First Authority is contained in the Counter-Notice, setting out in respect of each proposal which is not accepted by the First Authority why it is considered to be unacceptable.

25.4 Where any proposal in a Counter-Notice is accepted in a Notice of Acceptance, the Second Authority shall implement that proposal.

25.5 Where any matter is contained in a Notice of Dispute or where any other dispute arises between the Authorities, it shall fall to be dealt with as follows:

25.5.1 An Officer from each Authority responsible for the relevant Function and Service shall consider the matter and seek to resolve the same informally.

25.5.2 In the event that resolution is not possible by the Officers in Clause 25.5.1, then the matter shall be placed on the agenda for the next meeting of the Joint Officer Board, such meeting to be held within four weeks of the failure to resolve the dispute or breach by the Officers in Clause 25.5.1, an additional meeting being called if necessary to meet that timescale. The Joint Officer Board shall then consider the matter and make a recommendation as to what action, if any, should be taken.

25.5.3 Should the Authorities fail to agree and resolve the breach or dispute within 14 days of the Joint Officer Board’s recommendation, an Authority may by Notice to the Monitoring Officer(s) refer the matter to the Joint Executive Committee, where the matter shall be placed on the agenda for the next meeting or at an extraordinary meeting held for that

purpose. The Joint Executive Committee shall then consider the matter and make a determination as to what action, if any, should be taken.

25.5.4 Should the referral to the Joint Executive Committee fail to lead to a resolution, either Authority may refer the matter to mediation, including in relation to any matters falling within the remit of section 103 (expenses of joint committees) of the Local Government Act 1972.

25.5.5 Where a referral to mediation is made then this will be in accordance with the Centre for Effective Dispute Resolution (**CEDR**) Model Mediation Procedure. Unless otherwise agreed between the Authorities within ten (10) Working Days of the referral to mediation, the mediator will be nominated by CEDR.

25.5.6 The commencement of a mediation will not prevent the Authorities commencing or continuing court proceedings. Neither Authority shall be preventing from commencing protective proceedings at any time.

25.6 Nothing in this Agreement shall prejudice the operation of section 103 (expenses of joint committees) of the Local Government Act 1972.

26 TERMINATION AND CONSEQUENCES

26.1 This Agreement may be terminated:

26.1.1 by either Authority giving to the other not less than twenty four (24) months' notice in writing; or

26.1.2 by mutual agreement in writing by the Authorities on such terms as are recorded in that agreement including as to the timing of termination.

26.2 The inclusion of any of the Functions and Services within this Agreement:

26.2.1 shall terminate on any specific date for disaggregation stated in the Service Strategy unless otherwise agreed between the Authorities; or

26.2.2 may be terminated:

(a) by either Authority giving to the other not less than the period of notice in writing stated in the relevant Service Strategy or in the absence of any such period twelve (12) months' notice in writing; or

(b) by mutual agreement in writing by the Authorities on such terms as are recorded in that agreement including as to the timing of termination.

26.3 At least twelve months prior to (or in the case of only disaggregation of a Function and Service such period as is stated in the Service Strategy):

26.3.1 termination of this Agreement (in whole or in part); or

26.3.2 any Function and Service ceasing to form part of this Agreement termination (in whole or in part) including any date for disaggregation:

the Authorities shall develop an exit plan or otherwise review any exit plan contained within a Service Strategy so that each Authority will be able to meet its continuing obligations to discharge the Functions and deliver the Services and co-operate in implementing the agreed arrangements, including but not limited to:

26.3.3 co-operation in the sharing of information concerning Officers, consultation and entering arrangements for the transfer of their employment as may be agreed between the

Authorities as a part of the exit plan (including the application of TUPE, pension and other contractual arrangements);

- 26.3.4 co-operation in any requirement for terminating, modifying, restructuring, assigning or novating contractual arrangements entered into for mutual advantage and properly and timeously execute any documents necessary to effect such arrangements;
 - 26.3.5 arranging for the transfer or return of property and Assets, including intellectual property and data belonging to the other Authority;
 - 26.3.6 agreeing how any ICT facilities shall be divided between the Authorities so that each Authority will have the facilities necessary to meet its obligations to discharge the Function and co-operate in implementing the agreed arrangements.
 - 26.3.7 ensuring all rights and liabilities which vested before the termination of this Agreement shall remain so vested as if this Agreement continued.
- 26.4 Each Authority shall confirm in writing and produce such evidence as is reasonable to prove compliance with their obligations under this Clause.
- 26.5 Upon termination of this Agreement or, if earlier, a Function or Service ceasing to be part of this Agreement:
- 26.5.1 the obligations of each Authority in respect of the furtherance of the relevant Functions and Services as a shared enterprise on behalf of one another shall cease unless otherwise expressly agreed between the Authorities;
 - 26.5.2 the Agreement shall continue in force in respect of any financial liabilities which have arisen out of the performance of this Agreement up to the date of termination;
 - 26.5.3 the Disputes Procedure set out in Clause 25 of this Agreement shall remain in force in respect of any of the matters arising from the performance of or withdrawal of an Authority under this Agreement.
 - 26.5.1 the Authorities agree that they will work together and co-operate to ensure that the winding down and disaggregation of the integrated and joint activities to the separate responsibilities of the Authorities is carried out:
 - (a) smoothly and with as little disruption as possible to service users, employees, the Authorities and third parties, so as to minimise costs and liabilities of each Authority in doing so; and
 - (b) in accordance with the agreed exit plan.
- 26.6 Termination of this Agreement shall have no effect on the liability of any rights or remedies of either Authority already accrued, prior to the date upon which such termination takes effect.
- 26.7 On termination of this Agreement the following provisions shall continue in full force and effect together with any other provision of this Agreement expressly stating that it continues beyond termination: **[Placeholder – references to be added in final version].**

27 VARIATION

- 27.1 The Authorities may vary the terms of this Agreement by mutual agreement with such variations recorded in writing, signed and appended to this Agreement.
- 27.2 Proposal for variation can be recommended by the Joint Executive Committee.

28 SEVERANCE

28.1 If any condition, provision or Clause of this Agreement shall become or shall be declared by any court of competent jurisdiction to be void, invalid, illegal or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other provision all of which shall remain in full force and effect.

29 ENTIRE AGREEMENT

29.1 This Agreement constitutes the entire agreement and understanding of the Authorities and supersedes any previous agreement between the Authorities relating to the subject matter of this Agreement.

30 WAIVER

30.1 The failure to exercise or delay in exercising a right or remedy provided by this Agreement or by Law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies.

30.2 A waiver of a breach of any of the terms of this Agreement or of a default under this Agreement does not constitute a waiver of any other breach or default and shall not affect the other terms of this Agreement.

30.3 A waiver of a breach of any of the terms of this Agreement or of a default under this Agreement will not prevent an Authority from subsequently requiring compliance with the waived obligation.

31 GENERAL

31.1 Nothing contained or implied herein shall prejudice or affect the Authorities' rights and powers duties and obligations in the exercise of their functions as local authorities and/or in any other capacity and all rights powers discretions duties and obligations of the Authorities under all Laws may at all times be fully and effectually exercised as if the Authorities were not Authority to this Agreement and as if this Agreement had not been made.

31.2 The Authorities shall only represent themselves as being an agent partner or employee of any other authority to the extent specified by this Agreement and shall not hold themselves out as such nor as having any power or Authority to incur any obligation of any nature express or implied on behalf of any other Authority except to the extent specified in this Agreement.

31.3 This Agreement is personal to the Authorities and no Authority shall assign transfer or purport to assign or transfer to any other persons any of its rights or sub-contract any of its obligations under this Agreement without the consent of the other Authority or in the case of sub-contracting where the sub-contracting is pursuant to the agreed Service Strategy and the relevant costs are within the agreed budget.

31.4 No person other than the Authorities shall be entitled to enforce any of its terms under the Contracts (Rights of Third Authorities) Act 1999.

31.5 The Authorities shall at all times in the conduct of the Functions and Services under this Agreement deal with one another and their respective rights and responsibilities in good faith including in respect of any disputes between them.

31.6 If there is an Emergency, the Authorities shall cooperate and provide each other with any assistance as may reasonably be required to respond to that Emergency.

32 COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same Agreement.

33 GOVERNING LAW AND JURISDICTION

- 33.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the Law of England and Wales.
- 33.2 Each Authority irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

34 NOTICES

- 34.1 Any notice to be given by either Authority under this Agreement shall be given to the persons set out below:
- 34.1.1 in the case of a notice to Cumberland Council it shall be addressed to the Monitoring Officer at monitoring.officer@cumberland.gov.uk or Cumbria House, 117 Botchergate, Carlisle CA1 1RD (as may be amended by notice from time to time); or
- 34.1.2 in the case of a notice to Westmorland and Furness Council it shall be addressed to the Chief Executive at monitoring.officer@westmorlandandfurness.gov.uk or South Lakeland House, Lowther Street, Kendal LA9 4DQ (as may be amended by notice from time to time).
- 34.2 Any notice given to an Authority under or in connection with this Agreement shall be in writing marked for the attention of the person specified in this Clause 34 and shall be:
- 34.2.1 delivered by hand or by pre-paid first-class post or other next Working Day delivery service at the address specified in this Clause 34 (as amended); or
- 34.2.2 sent by email to the address specified in this Clause 34 (as amended).
- 34.3 Any notice shall be deemed to have been received:
- 34.3.1 if delivered by hand, at the time the notice is left at the proper address;
- 34.3.2 if sent by pre-paid first-class post or other next Working Day delivery service, at 9.00 am on the second Working Day after posting; or
- 34.3.3 if sent by email, at the time of transmission, or if this time falls outside working hours in the place of receipt, when working hours resume provided always that the Authority giving notice has received both a transmission (delivery) receipt and a read receipt. In this Clause 34.3.3, working hours means 9.00am to 5.00pm Monday to Friday on a Working Day.
- 34.4 This Clause does not apply to the service of any proceedings or other documents in any legal action.

IN WITNESS WHEREOF the Authorities have executed and delivered this Agreement as a deed on the date inserted at the beginning of this Agreement.

EXECUTED AS A DEED by the parties on the date which first appears in this Agreement

EXECUTED (but not delivered until the date hereof)
AS A DEED by affixing the COMMON SEAL of
CUMBERLAND COUNCIL in the presence of:-

.....
Authorised Signatory

EXECUTED (but not delivered until the date hereof)
AS A DEED by affixing the COMMON SEAL of
WESTMORLAND AND FURNESS COUNCIL in the presence of:-

.....
Authorised Signatory

DRAFT

SCHEDULE 1 – FUNCTIONS AND SERVICES

Part A – List of Functions and Services

Function/Service	Host Authority
AB Assurance / Economic Programme	Westmorland and Furness
Active Cumbria	Cumberland
Active Travel	Cumberland
Adoption	Cumberland
Adult Learning	Westmorland and Furness
Adults Urgent Care Team	Cumberland
Archives	Cumberland
Children Placement Team	Westmorland and Furness
Children’s Fostering	Cumberland
Childrens Emergency Duty Team	Westmorland and Furness
County Resilience / Emergency Planning	Westmorland and Furness
Customer Experience/Digital/Website	Westmorland and Furness
Customer Service	Westmorland and Furness
Connecting Cumbria	Cumberland
Finance - System	Cumberland
HR	Both
ICT	Cumberland
Insurance Services	Westmorland and Furness
Libraries – public	Cumberland
Partnership and Improvement (Children's)	Cumberland
People - schools finance	Westmorland and Furness
Purchase to pay	Cumberland
Records Management	Cumberland
Refugees resettlement Programme	Cumberland
Registrations	Cumberland
Residential and Edge of Care Homes	Cumberland
School library	Cumberland
School Organisation and Admissions	Westmorland and Furness
Education IPC Team	Cumberland

Part B – Service Strategies

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SCHEDULE 2 – TERMS OF REFERENCE OF JOINT EXECUTIVE COMMITTEE

Terms of Reference of the Joint Executive Committee

1. Purpose

The Joint Executive Committee's role is to oversee the management of those functions and services which are provided on a Cumbria-wide basis on behalf of the Cumberland and Westmorland and Furness Authorities to ensure effective delivery of such services and to provide strategic direction

2. Terms of Reference

Pursuant to Section 101(5) of the Local Government Act 1972, and to their powers under section 9EB of the Local Government Act 2000 and Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012, the Authorities' Executives have charged the Joint Executive Committee with responsibility for the exercise of:

- 2.1 Developing and approving the Service Strategies for each of the shared Functions and Services as may be agreed under the inter-authority agreement (**IAA**) dated [] 2023.
- 2.2 Ensuring that Service Strategies and the resources and budgets required to deliver the Service Strategies are in place.
- 2.3 Agreeing the responsibilities of each Authority to deliver the Service Strategies, including any specific responsibilities of the Host Authority and that the responsibilities are documented within the Service Strategies.
- 2.4 Ensuring that the services are provided within the policy and budget set by the Authorities.
- 2.5 Ensuring that the arrangements ensure that each Authority's statutory responsibilities are met.
- 2.6 Overseeing the implementation of the Service Strategies, including reviewing the performance of the services against budget and indicators for service quality, performance and efficiency, and initiating additional action where appropriate.
- 2.7 Ensuring that clear operational policies are in place and that these are complied with.
- 2.8 Agreeing the basis for apportioning cost between the two Authorities and the amount to be apportioned.
- 2.1 Ensuring that effective risk management arrangements are in place, that the Functions and Services are subject to adequate and independent audit and that any audit recommendations are acted upon.
- 2.2 Approving business cases for proposed changes and overseeing the progress of subsequent work.
- 2.3 Ensuring that there are robust plans for the disaggregation of services as and when required and that there is a smooth transition to separate or new arrangements.
- 2.4 Resolving issues that are referred to the Joint Executive Committee by the Joint Officer Board or relevant Chief Officers of the Service.
- 2.5 Delegating functions of the Joint Executive Committee to officers of either Authority under s.101 Local Government Act 1972.
- 2.6 Agreeing arrangements to place staff employed by one of the authorities at the disposal of the other authority to carry out the functions of the Joint Executive Committee as described above under s.113 Local Government Act 1972.

- 2.7 Take decisions in relation to the commissioning and procurement of services either hosted or under a lead authority arrangement from a third party.
- 2.8 Responding to reports or recommendations from the Joint Overview and Scrutiny Committee or one or both of the Authorities.
- 2.9 Providing an Annual Report to each of the two Authorities on the performance, finances and proposed service improvements including any arrangements for disaggregation.
- 2.10 To exercise the functions set out above clause 6.13 of the IAA in relation to the management of waste disposal services and ancillary contracts entered into between the Authorities dated [31 March] 2023.
- 2.11 To exercise the functions set out above in respect of any other such form of inter authority agreement as may be otherwise or subsequently agreed.

3. **Constitution of the Joint Executive Committee**

- 3.1 Each Authority shall appoint four Members (being executive (cabinet) members) as its nominated members of the Joint Executive Committee. The Members appointed will have full voting rights.
- 3.2 Each Authority may nominate one or more substitute Members to attend any meeting in place of an appointed Member (who shall also be executive members) subject to notification being given to the Monitoring Officer via the relevant Democratic Services before the start of the meeting. The Member appointed as a substitute shall have full voting rights.
- 3.3 Each member of the Joint Executive Committee shall comply with the Code of Conduct of their Authority when acting as a member of the Joint Executive Committee.
- 3.4 Each member of the Joint Executive Committee shall serve on the Joint Executive Committee for as long as they are appointed to the Joint Executive Committee by the relevant Authority but a Member shall cease to be a member of the Joint Executive Committee if they cease to be a member of the Executive appointing them or if the relevant Authority removes them from the Joint Executive Committee.
- 3.5 Meetings of the Joint Executive Committee shall be carried out on a rotational basis in alternate Authority areas.
- 3.6 The Authority hosting the first meeting shall appoint one of its nominated members as Chair and that member shall remain Chair until the first meeting taking place after the elapse of [**one year**] from the time of their appointment unless they cease to be a member of the Joint Executive Committee. On the expiry of the first Chair's term of office as Chair, the Authority which did not appoint the first Chair shall appoint one of its nominated members as Chair for a period of one year from the time of their appointment. The same procedure shall be followed for the appointment of the Chair in subsequent years.
- 3.7 The Authority not appointing the Chair of the Joint Executive Committee in any year shall appoint one of its nominated members as Vice Chair.
- 3.8 Proposed key decisions of the Joint Executive Committee will be published on the Forward Plan for each Authority in accordance with their own Access to Information Rules.
- 3.9 Meetings will be governed by the Executive Procedure Rules and the Access to Information Rules for each Authority, including public speaking and questions, and where they might differ will be those of the Authority of the Chair unless otherwise agreed between the Monitoring Officers of the two Authorities as to which of the two sets of Rules will be applied. There shall be no second or casting vote that may be made by the Chair. Where the Joint Executive Committee is unable to achieve a majority decision then the matter shall be adjourned to the

next ordinary or extraordinary meeting of the Joint Executive Committee. Where at that second meeting the Joint Executive Committee is unable to reach a majority decision then the matter shall be referred to mediation and subsequent steps in accordance with Clause 25 of the IAA referred to in paragraph 2.1 above.

- 3.10 The Joint Executive Committee shall normally meet once every two months (bi-monthly) unless otherwise determined by the Joint Executive Committee. Cancellation of meetings shall be agreed by the Joint Executive Committee or both Leaders.
- 3.11 The Authority providing the Chair shall also provide the host arrangements for Democratic Services and for the Monitoring Officer to act as proper officer to the Joint Executive Committee.
- 3.12 Additional meetings can be called by the relevant Monitoring Officer by providing at least five clear days' notice to members of the Joint Executive Committee, for the purposes of resolving urgent matters arising between the bi-monthly meetings. Additional meetings may be called if either Leader requests it.
- 3.13 The relevant Democratic Services will send out the agenda, record minutes and arrange for the sign off of minutes in accordance with the procedure rules for the relevant Authority.
- 3.14 A meeting of the Joint Executive Committee will require a quorum of at least two members from each Authority.

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SCHEDULE 3 – JOINT OVERVIEW AND SCRUTINY COMMITTEE

1. Purpose

The Authorities have established a Joint Overview and Scrutiny Committee to provide oversight support and to scrutinise the work of the Joint Executive Committee for the oversight and management of the shared Functions and Services, including the development and delivery Service Strategies and, where applicable, the implementation of disaggregation plans.

2. Terms of reference

The Joint Overview and Scrutiny Committee is established under s101(5) and s 102 Local Government Act 1972 and to conduct the Authorities’ functions under sections 9F and 9FA of the Local Government Act 2000 in respect of:

- 2.1 those functions exercised by the Joint Executive Committee
- 2.2 the shared Functions and Services for which the Joint Executive Committee is responsible
- 2.3 those decisions taken by the Joint Executive Committee, including those as delegated to an officer and those prospective decisions set out on the Forward Plan of decisions published in respect of the Joint Executive Committee
- 2.4 the ‘call-in’ function relating to these responsibilities, which shall be in the place of those call-in functions that might otherwise be exercised by the individual Authorities

3. Approach

- 3.1 In fulfilling these functions the Joint Overview and Scrutiny Committee will seek to:
 - 3.1.1 Develop a forward work programme of activities
 - 3.1.2 Review or scrutinise decisions made, or other action taken by the Joint Executive Committee
 - 3.1.3 Seek reassurance and consider whether the Functions and Services are operating in accordance with the Service Strategies, including the budgets and any implementation plans for disaggregation and continuing service provision
 - 3.1.4 Identification of barriers to progress, best practice and possible improvements.
 - 3.1.5 Holding the Joint Executive Committee to account by providing critical challenge to ensure that it provides the high-level strategic direction for the implementation of the Service Strategies.

4. Constitution

- 4.1 Each Authority shall appoint six Members (being non-executive members) on a politically proportionate basis as its nominated members of the Joint Overview and Scrutiny Committee. The Members appointed will have full voting rights. The Committee may co-opt non-voting members to assist it in its functions.
- 4.2 Each Authority may nominate one or more substitute Members to attend any meeting in place of an appointed Member (who shall also be non-executive members) subject to notification being given to the Monitoring Officer via the relevant Democratic Services before the start of the meeting. The Member appointed as a substitute shall have full voting rights.

- 4.3 Each member of the Joint Overview and Scrutiny Committee shall comply with the Code of Conduct of their Authority when acting as a member of the Joint Overview and Scrutiny Committee.
- 4.4 Each member of the Joint Overview and Scrutiny Committee shall serve on the Committee for as long as they are appointed to the Joint Overview and Scrutiny Committee by the relevant Authority.
- 4.5 Meetings of the Joint Overview and Scrutiny Committee shall be carried out on a rotational basis in alternate Authority areas.
- 4.6 A meeting of the Joint Overview and Scrutiny Committee will require a quorum of at least two members from each Authority.
- 4.7 The Chair shall be appointed by the Authority other than the Authority providing the Chair of the Joint Executive Committee from amongst those Members appointed by it (such appointment to be by the relevant Authority's full council). The term of office and rotation of the Authority from which the Chair is appointed will rotate in synchronisation with the rotation and appointment of the Chair of the Joint Executive Committee.
- 4.8 The Vice-Chair shall be appointed by Authority who has not appointed the Chair from amongst those Members appointed by it (such appointment to be by the relevant Authority's full council)..
- 4.9 Meetings will be governed by the Access to Information Rules for each Authority, including public speaking and questions, and where they might differ will be those of the Authority of the Chair unless otherwise agreed between the Monitoring Officers of the two Authorities as to which of the two sets of Rules will be applied.
- 4.10 The Joint Overview and Scrutiny Committee shall normally meet once every two months (bi-monthly) unless otherwise determined by the Joint Overview and Scrutiny Committee.
- 4.11 The Authority providing the Chair shall also provide the host arrangements for Democratic Services and for the Monitoring Officer to act as proper officer to the Joint Overview and Scrutiny Committee. The relevant Democratic Services will send out the agenda, record minutes and arrange for the sign off of minutes in accordance with the procedure rules for the relevant Authority.
- 4.12 The scrutiny officer function shall be a shared function between the Authorities but which shall, where required, be led by the scrutiny officer of the Authority providing the Chair.
- 4.13 The **Call-In** mechanism will be affected by a request of any [] members of either Authority sent to the Monitoring Officer of either Authority and containing details of the decision requested to be subject to call-in and the reasoning why. The process will then otherwise follow the call-in criteria, procedure and meeting requirements in respect of any subsequent meeting to be held of the Joint Overview and Scrutiny Committee in accordance with the Authorities' Overview and Scrutiny Procedure Rules. Where the Procedure Rules might differ, those applied will be the Overview and Scrutiny Procedure Rules of the Authority of the Chair unless otherwise agreed between the Monitoring Officers.

SCHEDULE 4– JOINT OFFICER BOARD

1. Purpose

- 1.1 The Joint Officer Board's role is to support the Joint Executive Committee, together with the Joint Overview and Scrutiny Committee, in overseeing the discharge of the shared Functions and Services, helping ensure the effective delivery of such service and helping to provide strategic direction
- 1.2 In doing so the Joint Officer Board will act as the primary focal point for all matters relating to discharge of the Functions and Services, including any related proposals for establishment, variation or disaggregation, as may be provided in pursuance of arrangements made between the Authorities under sections 101, 102 and 113 of the Local Government Act 1972.

2. Terms of Reference

- 2.1 In fulfilling its purpose the responsibilities of the Joint Officer Board will include:
 - 2.1.1 Considering proposed Service Strategies or variations to Service Strategies, including budgets, service business plans, business cases and other key documents relating to the delivery of the shared Functions and Services
 - 2.1.2 Monitoring the performance and financial position of the services and reporting accordingly to the Joint Executive Committee
 - 2.1.3 Reviewing the end of year outturn report for the Functions and Services, including the cost sharing proposals
 - 2.1.4 Making recommendations, providing advice and referring matters for decision to the Joint Executive Committee in a timely and efficient manner,
 - 2.1.5 Reporting to and supporting the functions of the Joint Overview and Scrutiny Committee in relation to the Functions and Services and related proposals
 - 2.1.6 Ensuring effective link and liaison with the relevant chief officers across the two Authorities
 - 2.1.6 Considering issues referred to the Joint Officer Board, including making a determination in respect of any disputes or differences that might arise between the Authorities, in accordance with the Agreement, and escalate any disputes to the Joint Executive Committee as may be appropriate.
 - 2.1.7 Confirming the appointment of Heads of Service for the Committee in relation to the Functions and Services and dealing with other HR related work referred to the Joint Officer Board.
 - 2.1.8 Ensuring consistent and effective communications in both Authorities on all matters relating to the Functions and Services and related proposals.
 - 2.1.10 Supporting, assisting and advising the Joint Executive Committee and the Authorities in developing the strategy and plans for the longer term vision for the discharge of the shared Functions and Services including beyond the arrangements provided for in the Agreement.
 - 2.1.11 Promoting the Functions and Services across the two Authorities and in the external environment.

3. Constitution

- 3.1 Core membership will include the Chief Executive, Section 151 Officer and Monitoring Officer (the governance chief officers) of each Authority, together with such other Officers as the Chief Executives between them shall agree to invite.
- 3.2 The chief officer members of the Joint Officer Board may nominate a deputy to act in their place.
- 3.3 The quorum shall be two of three governance chief officers of each Authority or their nominees.
- 3.4 The decision maker shall be the chief executive or their nominee in respect of a decision to be made by each Authority. Wherever possible those decisions will be made in agreement and in concert between the two chief executives or nominees.
- 3.5 The decision maker in relation to a decision to be made under delegated authority in relation to a shared Function or Service, pursuant to s.101 arrangements under the Agreement, shall be the relevant head of service or the officer acting under express delegation from the Joint Executive Committee.
- 3.6 The Chair of the Joint Officer Board shall be the Chief Executive of the Authority providing the Chair of the Joint Executive Committee. The Vice-Chair shall be the Chief Executive of the Authority providing the Vice-Chair of the Joint Executive Committee. In their absence the Joint Officer Board shall appoint a person from its number to preside for the duration of the meeting.

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SCHEDULE 5 –TUPE/EMPLOYMENT AND PENSIONS PROVISIONS

Definitions relevant to Schedule 5:

Employees means all employees of the Authorities discharging the Function and/or delivering the Services.

Host Authority means the host Authority for the Function and/or the Services.

Recipient Authority means the Authority receiving the Function and/or the Services from the Host Authority.

Termination Employees means the Employees who it is determined in accordance with the procedure set out in Schedule 5 will transfer to the Host Authority on the Termination Date.

TUPE Regulations means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

1 No TUPE Transfer on Commencement Date

1.1 The Authorities acknowledge and agree that as at the Commencement Date, the discharge of a Function and/or the delivery of a Service through this Agreement by the Host Authority from the Commencement Date shall not constitute a relevant transfer for the purposes of the TUPE Regulations and accordingly no employees of either Authority are expected to transfer to the other under the TUPE Regulations on the Commencement Date.

2 Termination

2.1 In the event of the termination of this Agreement in accordance with Clause 26 the Authorities agree to give effect to the exit plan referred to in Clause 26.3 to enable the termination of the Agreement to take effect as soon as reasonably possible.

2.2 Without prejudice to the exit plan referred to in Clause 26.3 and to the provisions of Clause 26 more generally the Host Authority shall:

2.2.1 provide the Recipient Authority with all relevant information and support relating to the Function and Services which the Recipient Authority reasonably requires to enable them to discharge the Function and deliver the Services from the date of termination;

2.2.2 deliver to the Recipient Authority no later than seven days after termination any data held by the Host Authority relates to the discharge of the Function and the delivery of the Services for or by the Recipient Authority.

2.3 The Authorities acknowledge that it is their intention that on the cessation of the discharge of any Function and/or the cessation of the delivery of any of the Services by the Host Authority (the "**Termination Date**") and the commencement of any discharge of any functions and delivery of the services which are the same or similar to the Function and Services (or any part of them) by the Recipient Authority shall with respect to each of the Termination Employees be treated as a relevant transfer for the purposes of the TUPE Regulations.

2.4 Without prejudice to the TUPE Regulations the Host Authority shall when requested by the Recipient Authority any time within the twelve month period prior to the expiry of this Agreement, or if at any time any Authority serves notice to terminate the provision by the Host Authority of any Function and/or Services provide in respect of the Employees:

2.4.1 full and accurate details regarding their identity, age, sex, length of service, job title, grade and terms and conditions of employment;

- 2.4.2 current, pending and threatened claims, disputes, trade disputes and industrial action by any Employee or their representative and circumstances known to the Host / Lead Authority which make such a claim, dispute or industrial action possible;
- 2.4.3 and any other information which the Recipient Authority may reasonably request.
- 2.5 The Host Authority shall provide the information referred to above at paragraph 2.4 of this Schedule 5 as soon as reasonably practicable after receipt of the said written notice and at no cost to the Recipient Authority and notify the Recipient Authority forthwith in writing of any material changes to such information as soon as reasonably practicable as and when such changes arise.
- 2.6 The Authorities will in good faith and following consultation with the Employees of the Host Authority and any appropriate representatives within the meaning of the TUPE Regulations attempt to agree which of the Employees will be deemed to transfer to the Recipient Authority in accordance with paragraph 2.3 of this Schedule 5 in accordance with the applicable provisions in the Staff Allocations Framework, developed and agreed as part of the LGR Programme (the “**Staff allocations Framework**”) who shall be, for the purposes of this Agreement, the “**Termination Employees**”, with the remainder of such Employees remaining with the Host Authority. If the Authorities have not agreed the identity of the Termination Employees and to which of the Authorities each of the Termination Employees will transfer (“the **Agreed New Employer**”) at least three months prior to the Termination Date, then the Authorities will resolve the matter [in accordance with the dispute resolution procedure set out in Clause 25].
- 2.7 If TUPE does not apply on the Termination Date, the Agreed New Employer shall offer employment to the Termination Employees on the same terms and conditions as applied immediately before the Termination Date (save in relation to any change which would otherwise be in accordance with regulation 4(5) of TUPE) including full continuity of employment.
- 2.8 The Host Authority shall indemnify the Recipient Authority from and against each and every cost, claim, liability, expense or demand which is properly and reasonably incurred by the Recipient Authority in connection with and as a result of any action or omission by the Host Authority up to and including the Termination Date in connection with any matter relating to or arising out of:
- 2.8.1 arising from the Host Authority’s breach of its obligations under paragraph 2.4;
- 2.8.2 the employment or termination of employment of any Termination Employee by the Host Authority up to and including the Termination Date;
- 2.8.3 anything done or omitted to be done by or on behalf of the Host Authority in respect of any Termination Employee up to and including the Termination Date which is deemed to have been done or omitted to be done by or on behalf of the Recipient Authority in accordance with the TUPE Regulations;
- 2.8.4 any failure by the Host Authority to pay any of the Termination Employees any remuneration due or provide any benefits in respect of the period prior to the Termination Date;
- 2.8.5 any claim by or on behalf of all or any of the Termination Employees arising out of any failure by the Host Authority to comply with its legal obligations in relation to information and consultation pursuant to regulations 13 and 14 of the TUPE Regulations save insofar as any such failure results from any failure by the Recipient Authority to comply with its obligations pursuant to regulation 13 (4) of the TUPE Regulations.
- 2.9 The Host Authority shall indemnify the Recipient Authority from and against all claims, liabilities, costs, demands (including all reasonable expenses associated therewith) made within twelve months of the Termination Date by or in relation to each and every Employee or former Employee of the Host Authority who is not a Termination Employee and who was prior to the Termination Date employed by the Host Authority in the discharge of the Function and the delivery of the Services in respect of whom it is alleged their employment or any liabilities have transferred to the Recipient Authority pursuant to the TUPE Regulations being any claim, liability, cost and demand arising out of:

- 2.9.1 the employment or termination of employment of such a person up to and including the Termination Date; or
- 2.9.2 the employment or any termination of employment of such a person after the Termination Date (excluding claims for discrimination by the Recipient Authority) by the Host Authority; or
- 2.9.3 any claim by or on behalf of any such person arising out of any failure to comply with regulations 13 and 14 of the TUPE Regulations.

PROVIDED THAT in the event of any such claim being made, the Recipient Authority shall forthwith notify the Host Authority and no agreement or settlement shall be reached or entered into by the Recipient Authority without the prior written consent of the Host Authority such consent not to be unreasonably withheld or delayed.

- 2.10 The Recipient Authority shall indemnify the Host Authority from and against each and every cost, claim, liability, expense or demand which is properly and reasonably incurred by the Host Authority in connection with or as the result of any act or omission by the Recipient Authority after the Termination Date in connection with any matter relating to:
 - 2.10.1 the employment or termination of employment of any Termination Employee by the Recipient Authority after the Termination Date;
 - 2.10.2 any claim by or on behalf of all or any of the Termination Employees that the transfer involves or would involve a substantial change in working conditions to the material detriment of such a person;
 - 2.10.3 any claim by or on behalf of all or any of the Termination Employees arising out of the Recipient Authority's failure to comply with its legal obligations in relation to information and consultation pursuant to regulations 13(4).
- 2.11 On the Termination Date, the Authorities shall co-operate to manage the pension aspects of any onward transfer of any Termination Employees to the Recipient Authority.
- 2.12 The Host Authority shall promptly provide to the Local Government Pension Scheme and to the Recipient Authority such documents and information as may reasonably be required in advance of the Termination Date and shall fully co-operate with the reasonable requests of the Local Government Pension Scheme and the Recipient Authority relating to any administrative tasks necessary to deal with the pension rights of and aspects of any onward transfer of any Termination Employees on the Termination Date.

3 Employment Matters to be referred to Joint Officer Board

- 3.1 If following the Commencement Date and up to and including the Termination Date in relation to any Function or Services which are the subject of this Agreement:
 - 3.1.1 a redundancy or reorganisation process is proposed;
 - 3.1.2 material changes to the terms and conditions of employment of more than **[number]** of the Employees at any one time are proposed; or
 - 3.1.3 there are material concerns with regard to the performance of any group of Employees;

the matter shall be referred to the Joint Officer Board for consultation with a view to reaching agreement.

SCHEDULE 6 - DATA PROTECTION TERMS

1 Additional Definitions

1.1 In addition to the definitions contained at Clause **Error! Reference source not found.** of the Agreement, the following terms shall have the following meaning in this Schedule 6:

Controller, Data Subject, Personal Data Breach, Processing (including **Process, Processes** and **Processed**) and **Processor**: shall have the meaning as set out in the Data Protection Legislation;

Data Subject Communication: means any communication, inquiry, request or complaint from a Data Subject relating to the Processing of Joint Controller Data;

Joint Controller: means one or more Controllers who jointly determine the purposes and means of Processing of Personal Data;

Joint Controller Data: means the Personal Data as detailed in any Service Strategy or Hosted Contract Schedule where and to the extent that the Authorities' relationship in respect of the Processing of such Personal Data has been identified as that of Joint Controllers;

Joint Controller Purposes: means the purposes for Processing Joint Controller Data as detailed in any relevant Service Strategy or Hosted Contract Schedule;

Regulatory Communication: means any communication, inquiry, request or complaint from a data protection supervisory authority or other public authority relating to the Processing of Joint Controller Data;

Sub-Processor: means any third party appointed to Process Personal Data on behalf of the Processor related to the Functions and Services or a Hosted Contract.

1.2 The provisions of this Schedule 6 shall apply during the continuance of the Agreement and indefinitely after its expiry or termination.

2 Part A – Controller and Processor Relationship Terms

- 2.1 With respect to the Authorities' rights and obligations under the Agreement, the Authorities agree that where and to the extent their relationship in respect of either the Functions and Services or a Hosted Contract in respect of Personal Data as detailed in the Service Strategy or the Hosted Contract Schedule (as applicable) is that of Controller and Processor, the Recipient Authority is the Controller and the Host Authority is the Processor and the provisions set out in this Part A of Schedule 6 shall apply. For the avoidance of doubt, the provisions of this Part A shall apply to the exclusion of Parts B and C of this Schedule 6.
- 2.2 The Recipient Authority shall not disclose any Personal Data to the Host Authority save where it is lawful and in a form which is lawful.
- 2.3 The Recipient Authority shall notify the Host Authority immediately if it considers that any of the Recipient Authority's instructions infringe the Data Protection Legislation.
- 2.4 The subject-matter and duration of the Processing, nature and purpose of the Processing, types of Personal Data, and categories of Data Subjects are set out in the Annex to the relevant Service Strategy or the Hosted Contract Schedule.
- 2.5 The Recipient Authority may make reasonable amendments to this Part A of Schedule 6 by written notice to the Host Authority from time to time as the Recipient Authority considers necessary to meet the requirements of the Data Protection Legislation.
- 2.6 The Host Authority agrees to only Process the Personal Data in accordance with the terms and conditions set out in the Agreement and, subject to the overriding requirements of Data Protection Legislation, undertakes to:
- 2.6.1 only process Personal Data on the written instructions of the Recipient Authority, including those written instructions set out in the Annex to the relevant Service Strategy or the Hosted Contract Schedule, unless Processing is required by applicable Laws to which the Host Authority is subject, in which case the Host Authority shall, inform the Recipient Authority of that legal requirement before Processing unless such applicable Laws prohibit it on important grounds of public interest;
 - 2.6.2 ensure that any Host Authority staff with access to Personal Data are subject to a duty of confidentiality (whether contractual or statutory) and ensure that access is strictly limited to those individuals who need to know/access the Personal Data;
 - 2.6.3 implement appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the UK GDPR, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons;
 - 2.6.4 only engage Sub-Processors with the prior written consent of the Recipient Authority;
 - 2.6.5 only engage Sub-Processors, including any pre-approved Sub-Processors set out in the Annex to the relevant Service Strategy or the Hosted Contract Schedule, under a written contract, imposing equivalent data protection obligations as set out in Part A of this Schedule 6, remaining liable to the Recipient Authority for compliance of any Sub-Processor engaged and informing the Recipient Authority of any changes concerning the addition or replacement of Sub-Processors giving the Recipient Authority sufficient opportunity to object to such changes within a reasonable timeframe;
 - 2.6.6 assist the Recipient Authority by applying appropriate technical and organisational measures, insofar as possible, for the fulfilment of the Recipient Authority's obligations to respond to requests for exercising the Data Subject's rights laid down in the Data Protection Legislation;

- 2.6.7 notify the Recipient Authority within five (5) Working Days if it receives a request from a Data Subject under the Data Protection Legislation in respect of the Personal Data and not respond to any such request without the written authorisation of the Recipient Authority or as required by the Data Protection Legislation to which the Host Authority is subject but only after informing the Recipient Authority of such legal requirement before responding to the request;
- 2.6.8 notify the Recipient Authority without undue delay, and at least within forty eight (48) hours, upon becoming aware of a Personal Data Breach, providing the Recipient Authority with sufficient information to allow it to meet its obligations under the Data Protection Legislation and assisting the Recipient Authority, as directed, in the investigation, mitigation and remediation of such Personal Data Breach;
- 2.6.9 assist the Recipient Authority in ensuring compliance with the obligations pursuant to the Data Protection Legislation taking into account the nature of the Processing for the purposes of the Functions and Services or the Hosted Contract Schedule and the information available to the Authority, including but not limited to those obligations relating to:
- (a) security of processing;
 - (b) notification of a Personal Data Breach to the Commissioner;
 - (c) communication of a Personal Data Breach to the Data Subject; and
 - (d) Data Protection impact assessments and any subsequent consultations with the Commissioner;
- 2.6.10 on the expiry or termination of the Agreement, promptly upon request from the Recipient Authority (at the Recipient Authority's discretion) either:
- (a) return all Personal Data to the Recipient Authority and delete all existing copies, or procure such deletion; or
 - (b) securely destroy such Personal Data, unless an applicable Law requires storage of the Personal Data but only to the extent and for such period as required by such Law;
- 2.6.11 notify the Recipient Authority of the deletion of Personal Data in accordance with paragraph 2.6.10 of this Schedule 6 within twenty one (21) days of the expiry or termination of the Agreement;
- 2.6.12 not transfer Personal Data outside the UK without the prior written consent of the Recipient Authority and ensuring that any such transfers are subject to appropriate safeguards as set out within the Data Protection Legislation including the completion of a data transfer impact assessment where so required;
- 2.6.13 make available to the Recipient Authority on request all information necessary to demonstrate compliance with the Data Protection Legislation, and allow for and contribute to audits, including inspections, by the Recipient Authority or an auditor mandated by the Recipient Authority including to permit the Recipient Authority or its external advisers (subject to reasonable and appropriate confidentiality undertakings) to inspect and audit the Host Authority's data processing activities and those of its agents, subsidiaries and sub-contractors and comply with all reasonable requests or directions by the Recipient Authority to enable the Recipient Authority to verify and procure that the Host Authority is in full compliance with its obligations under this Paragraph 2 of Schedule 6.

3 Part B – Independent Controller Terms

- 3.1 With respect to the Authorities' rights and obligations under the Agreement, the Authorities agree that where and to the extent their relationship in respect of either the Functions and Services or a Hosted Contract in respect of Personal Data as detailed in the Service Strategy or the Hosted Contract Schedule (as applicable) is identified as that of separate and independent Controllers the provisions set out in this Part B of Schedule 6 shall apply. For the avoidance of doubt, the provisions of this Part B shall apply to the exclusion of Parts A and C of this Schedule 6.
- 3.2 Each Authority shall Process the Personal Data in compliance with the Data Protection Legislation and all applicable Laws, enactments, regulations, orders, standards, guidance, and other similar instruments that apply to its Personal Data Processing operations, and shall not put the other Authority in breach of the Data Protection Legislation.
- 3.3 Each Authority shall ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, any shared Personal Data.
- 3.4 Each Authority shall Process the Personal Data in compliance with the Data Protection Legislation and all applicable Laws, enactments, regulations, orders, standards, guidance, and other similar instruments that apply to its Personal Data Processing operations, and shall not put the other Authority in breach of the Data Protection Legislation.
- 3.5 The Authorities acknowledge that they will disclose to each other the Personal Data described in the Annex to the relevant Service Strategies or the Hosted Contract Schedules in which the Authorities have been identified as independent Controllers. The subject-matter and duration of the Processing, nature and purpose of the Processing, types of Personal Data, and categories of Data Subjects are set out in the Annex to the relevant Service Strategy or the Hosted Contract Schedule.
- 3.6 On the expiry or termination of the Agreement, or when the period for the duration of the processing as set out in the Service Strategy or Hosted Contract Schedule has expired, whichever is the later, the Authorities shall either delete any shared Personal Data or retain such Personal Data in line with its own retention schedules or in accordance with any applicable laws.
- 3.7 The Personal Data shared between the Authorities as independent Controllers will be carried out on the following lawful bases under the UK GDPR:
- 3.7.1 Personal Data:
- (a) Article 6(1)(c) UK GDPR processing is necessary for compliance with a legal obligation;
 - (b) Article 6(1)(d) UK GDPR processing is necessary in order to protect the vital interests of the Data Subject or others; or
 - (c) Article 6(1)(e) UK GDPR processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority.
- 3.7.2 Special Categories of Personal Data:
- (a) Article 9(2)(b) UK GDPR processing is necessary for obligations relating to employment, social security and social protection;
 - (b) Article 9(2)(c) UK GDPR processing is necessary in order to protect the vital interests of the Data Subject or others;

- (c) Article 9(2)(f) UK GDPR processing is necessary for the establishment, exercise or defence of legal claims;
- (d) Article 9(2)(g) UK GDPR processing is necessary for reasons of substantial public interest;
- (e) Article 9(2)(j) UK GDPR processing is necessary for archiving, scientific or historical research purposes; or
- (f) Article 10 UK GDPR processing is carried out under official authority or is authorised by law (in relation to Personal Data relating to criminal convictions and offences).

- 3.8 Where required, additional conditions of processing may apply pursuant to Schedule 1 of the Data Protection Act 2018 depending on the legal basis for processing under the UK GDPR. The Authorities shall ensure that an appropriate condition for processing is identified for each processing activity where required under the Data Protection Legislation.
- 3.9 Each Authority shall promptly (and without undue delay) notify the other Authority in writing of any Personal Data Breach or breach of the Data Protection Legislation of which it becomes aware relating to the Personal Data which the Authorities are Processing as independent Controllers, to the extent that such Personal Data Breach or breach of the Data Protection Legislation is likely to affect the other Authority.
- 3.10 In the event of any Personal Data Breach each party shall:
- 3.10.1 do all such things as reasonably necessary to assist the other Authority in mitigating the effects of the Data Breach;
 - 3.10.2 implement any measures necessary to restore the security of any compromised personal Data;
 - 3.10.3 work with the other Authority to make any required notifications to the Commissioner and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein);
 - 3.10.4 not do anything which may damage the reputation of the other Authority or that Authority's relationship with the relevant Data Subjects, save as required by applicable laws.
- 3.11 In the event of a dispute or claim brought by a Data Subject or the Commissioner concerning the Processing of Personal Data undertaken by the Authorities as independent Controllers in connection with the Agreement against one or more of the Authorities, the Authorities will inform each other about any such disputes or claims and will cooperate with a view to settling them amicably in a timely fashion.
- 3.12 The Authorities agree to provide reasonable assistance as is necessary to each other to enable them to comply with the application of Data Subjects' rights in relation to the Personal Data that the Authorities are Processing as independent Controllers in connection with the Agreement, including the right of subject access, as provided to Data Subjects under the Data Protection Legislation.
- 3.13 The Authorities agree not to transfer Personal Data to the other Authority to the extent that such Data may be processed outside of the UK, unless the prior written authorisation of the disclosing Authority is granted prior to any such transfer and appropriate safeguards have been entered into to protect the transfer as set out within the Data Protection Legislation including the completion of a data transfer impact assessment where so required.

4 Part C – Joint Controller Terms

- 4.1 With respect to the Authorities' rights and obligations under the Agreement, the Authorities agree that where and to the extent their relationship in respect of either the Functions and Services or a Hosted Contract in respect of Personal Data as detailed (as applicable) in the Service Strategy or the Hosted Contract Schedule is that of Joint Controllers, the Authorities act together in determining the purpose and manner of the Processing of such Personal Data and the provisions set out in this Part C of Schedule 6 shall apply. For the avoidance of doubt, the provisions of this Part C shall apply to the exclusion of Parts A and B of this Schedule 6.
- 4.2 Each Authority shall comply with Data Protection Legislation in processing Joint Controller Data.
- 4.3 Each Authority shall do all things reasonably necessary to assist the other in complying with its obligations under Data Protection Legislation in respect of the Processing of Joint Controller Data.
- 4.4 Each Authority shall Process Joint Controller Data in accordance with, and for the Joint Controller Purposes, provided that nothing in this Agreement shall restrict an Authority's use of Joint Controller Data which was in that Authority's possession prior to the date of this Agreement.
- 4.5 The Joint Controller Data will be processed by the Authorities on the following lawful bases under the UK GDPR:
- 4.5.1 Personal Data:
- (a) Article 6(1)(c) UK GDPR processing is necessary for compliance with a legal obligation;
 - (b) Article 6(1)(d) UK GDPR processing is necessary in order to protect the vital interests of the Data Subject or others; or
 - (c) Article 6(1)(e) UK GDPR processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority.
- 4.5.2 Special Categories of Personal Data:
- (a) Article 9(2)(b) UK GDPR processing is necessary for obligations relating to employment, social security and social protection;
 - (b) Article 9(2)(c) UK GDPR processing is necessary in order to protect the vital interests of the Data Subject or others;
 - (c) Article 9(2)(f) UK GDPR processing is necessary for the establishment, exercise or defence of legal claims;
 - (d) Article 9(2)(g) UK GDPR processing is necessary for reasons of substantial public interest;
 - (e) Article 9(2)(j) UK GDPR processing is necessary for archiving, scientific or historical research purposes; or
 - (f) Article 10 UK GDPR processing is carried out under official authority or is authorised by law (in relation to Personal Data relating to criminal convictions and offences).
- 4.6 Where required, additional conditions of processing may apply pursuant to Schedule 1 of the Data Protection Act 2018 depending on the legal basis for processing under the UK GDPR. The Authorities shall ensure that an appropriate condition for processing is identified for each processing activity where required under the Data Protection Legislation.

- 4.7 On the expiry or termination of the Agreement, or when the period for the duration of the processing as set out in the Service Strategy or Hosted Contract Schedule has expired, whichever is the later, the Authorities shall either delete any shared Personal Data or retain such Personal Data in line with its own retention schedules or in accordance with any applicable laws.
- 4.8 Unless otherwise agreed between the Authorities, the Host Authority shall be solely responsible for providing Data Subjects with the information required under Data Protection Legislation and, in particular, under Articles 13 and 14 of the UK GDPR in relation to the Processing of Joint Controller Data described in the relevant Service Strategy or Hosted Contract Schedule. The subject-matter and duration of the Processing, nature and purpose of the Processing, types of Personal Data, and categories of Data Subjects are set out in the Annex to the relevant Service Strategy or the Hosted Contract Schedule.
- 4.9 The Privacy Notice shall explain the allocation of responsibilities between the Authorities, and unless otherwise agreed between the Authorities, shall designate the Host Authority as a single point of contact for Data Subject Communications.
- 4.10 The Authority responsible for providing Data Subjects with the information set out in Paragraph 4.6 of Schedule 6, shall in a timely fashion, be provided by the other Authority with any information required to enable compliance with the obligation under paragraph 4.5 and in particular to identify the lawful basis of the Processing of Joint Controller Data.
- 4.11 If either Authority receives a Data Subject Communication it shall notify the other Authority promptly of the Data Subject Communication. Unless otherwise agreed between the Authorities in respect of a particular Data Subject Communication, the Authority which first received the Data Subject Communication (**Responsible Authority**) shall be responsible for responding to and resolving Data Subject Communications and shall:
- 4.11.1 provide the other Authority with a reasonable opportunity to comment on and contribute to any response before it is sent; and
 - 4.11.2 keep the other Authority informed as to the status of the resolution of the Data Subject Communication and provide all such information to the other Authority as the other Authority may reasonably request in respect of this.
- 4.12 The other Authority shall provide the Responsible Authority in a timely fashion with any information required to enable the Responsible Authority to respond to and resolve a Data Subject Communication.
- 4.13 Where the Data Subject Communication requires action or information relating to Joint Controller Data held by the other Authority, the other Authority shall provide such assistance as is reasonably required by the Responsible Authority in a timely fashion.
- 4.14 If either Authority becomes aware that Joint Controller Data which it has received from or shared with the other Authority is inaccurate or incomplete, it shall promptly notify the other Authority.
- 4.15 If either Authority receives a Regulatory Communication it shall:
- 4.15.1 notify the other Authority promptly of the Regulatory Communication;
 - 4.15.2 respond to and resolve the Regulatory Communication and shall provide the other Authority with a reasonable opportunity to comment on and contribute to any response before it is sent; and
 - 4.15.3 keep the other Authority informed as to the status of the resolution of the Regulatory Communication and provide all such information to the other Authority as may be reasonably requested.

- 4.16 If either Authority suffers a Personal Data Breach affecting Joint Controller Data received from the other Authority it shall promptly notify the other Authority and take reasonable steps to mitigate the effects of and remediate the Personal Data Breach. Each Authority:
- 4.16.1 shall be individually responsible for complying with data breach notification obligations under Data Protection Legislation for Joint Controller Data within its operational control;
 - 4.16.2 shall provide the other Authority with such other assistance as it may need in order to make any required notifications to the relevant data protection supervisory authority or regulator and/or equivalent relevant regulator and affected Data Subjects; and
 - 4.16.3 co-operate with the other Authority to take any further actions reasonably necessary to resolve the issue in accordance with the Data Protection Legislation
- 4.17 The Authorities confirm and agree that any Personal Data processed in accordance with this Part C of this Schedule 6 shall only be processed in the UK. To the extent that any Personal Data shall be processed outside of the UK, the Authorities shall confirm and agree in writing that such processing is compliant with the Data Protection Legislation and that appropriate safeguards are in place prior to any such transfer being made including the completion of a data transfer impact assessment where so required.

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SCHEDULE 7 – HOSTED CONTRACT SCHEDULES

Part A – Hosted Contracts

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Title (as it appears on the contract)	Current Supplier (as it appears on the contract)	Contract Start Date	Contract End Date	Contract Extension Available	Contract extension period	LGR Contract Type (Contract, Framework etc.)	New Council
0 - 19 Healthy Child Programme Services	North Cumbria Integrated Care NHS Foundation Trust		31/03/2023	Yes	2 x 12 Months	Contract	Hosted in Cumberland
Adult Education Observation of Teaching and Learning Software			06/10/2021	No		Contract	Hosted in Cumberland
Agreement for Road Weather Forecasting & Prediction Services	Met Desk Ltd	01/10/2019	31/803/2024	Yes	2 x 12 month extensions available (1x 6 months used & 1x 12 months used)	Contract	Hosted in Cumberland
All Age Oral Health Improvement Service	North Cumbria Integrated Care NHS Foundation Trust	01/01/2020	31/03/2023	Yes	12 month extension available	Contract	Hosted in Cumberland
Booking system for the Council's pool cars	Co-Wheels Car Club Community Interest Company		31/08/2023	Yes	Optional 1 year extension to 31/08/2023	Contract	Hosted in Cumberland

Calm Software	Axiell Calm Ltd		31/03/2024	No		Contract	Hosted in Cumberland
Capital Grant Agreement relating to the procurement of Wholesale Broadband Services dated 30th July 2013 between the Secretary of State for Digital, Culture, Media and Sport ("DCMS") and Cumbria County Council	Department of Digital, Culture, Media and Sport		30/07/2013	01/02/2021	N/A	Contract	Hosted in Cumberland
Capital Grant Agreement relating to the procurement of Wholesale Broadband Services dated June 2015 between the Secretary of State for Digital, Culture, Media and Sport ("DCMS") and Cumbria County Council	Department of Digital, Culture, Media and Sport		01/06/2015	01/02/2021	N/A	Contract	Hosted in Cumberland
CFRS Satellite subscription	Prime Tech	31/3/22	31/3/23	No		Contract	Hosted in Cumberland
Children's Homes Manual	Tri.x (Signis Limited)	01/03/2022	28/02/2023	Annual	12 months rolling	Contract	Hosted in Cumberland
Closed Landfill Monitoring and Maintenance Contract	Enitial	01/04/2020	31/03/2024	Yes	1x 24 month used	Contract	Hosted in Cumberland
Connecting Cumbria BT	British Telecom Plc		01/11/2012	01/03/2024	N/A	Contract	Hosted in Cumberland
CONTRACT FOR THE PROVISION OF DEPLOYED SERVICES (Connecting Cumbria Phase 1)	British Telecom Plc		01/06/2015	01/03/2025	N/A	Contract	Hosted in Cumberland

Corporate Telephony Support	Southern Communications		30/11/2023	No		Contract	Hosted in Cumberland
Cumbria Compost Volunteer Scheme	Garden Organic	01/04/2022	31/03/2024	No	Nil	Contract	Hosted in Cumberland
CWM Leachate	CWM		No fixed dates	Yes	Rolling agreement	Contract	Hosted in Cumberland
Dental Epidemiology Fieldwork	North Cumbria Integrated Care NHS Foundation Trust	09/01/2020	31/08/2023	No		Contract	Hosted in Cumberland
Duty Sheet CFRS Volunteers C3 (Now Access UK Ltd)	Dutysheet Ltd		03/01/2023	No	Nil	Contract	Hosted in Cumberland
Framework Agreement for The Provision of Extra Care Housing and Supported Living Accommodation in Cumbria	Creative Support Ltd Eden Housing Association Ltd Eric Wright Group Limited The Fair oak Housing Association HB Village Developments Limited Home Group Limited Housing & Care 21 Impact Housing Association Limited Keepmoat Regeneration Limited South Lakes Housing	02/01/2017	31/05/2023	Yes	2 years	Framework	Hosted in Cumberland

Framework Agreement for the Supply of Care Equipment for Daily Living	Age UK West Cumbria Alston Pharmacy Limited Cumbria Mobility Ltd Joseph Cowper Limited Robson Medical and Mobility Ltd	05/10/2022	09/05/2024	Yes	2 x 12 months	Framework	Hosted in Cumberland
Framework for Provision of Older Adults Residential & Nursing Care Services	Various - 151 Providers	Various dates	13/05/2024	No	2x12 months; both used	Framework	Hosted in Cumberland
GCloud 11 call off contract (version 4) [Insurance ClaimControl Software 4 year contract]	AlphaTec Software	01/07/2020	31/06/2023	Yes	2 x 12months (1 Used)	Contract	Hosted in Cumberland
Highways Fleet Vehicle Replacement Framework 2021-2025	James A Cutherbertson Ltd Scot JCB Ltd Guest Motors Ltd T/A Guest Truck and Van, North East Truck and Van Ltd Lloyd Ltd Aprite (GB) Ltd t/as West Way Nissan, Ford Retail Ltd T/A Trust Ford, Renault UK Ltd Toyota GB PLC	01/05/2021	30/04/2025	No	Nil	Framework	Hosted in Cumberland
Highways Fleet Vehicle Replacement Framework 2021-2025	James A Cutherbertson Ltd Scot JCB Ltd Guest Motors Ltd T/A Guest Truck and Van, North East Truck and Van Ltd Lloyd Ltd Aprite (GB) Ltd t/as West Way Nissan,	01/05/2021	30/04/2025	No	Nil	Framework	Hosted in Cumberland

	Ford Retail Ltd T/A Trust Ford, Renault UK Ltd Toyota GB PLC						
Highways Fleet Vehicle Replacement Framework 2021-2025	James A Cutherbertson Ltd Scot JCB Ltd Guest Motors Ltd T/A Guest Truck and Van, North East Truck and Van Ltd Lloyd Ltd Aprite (GB) Ltd t/as West Way Nissan, Ford Retail Ltd T/A Trust Ford, Renault UK Ltd Toyota GB PLC	01/05/2021	30/04/2025	No	Nil	Framework	Hosted in Cumberland
Highways Waste Disposal	<ul style="list-style-type: none"> • Cumbria Waste Management Ltd • Metcalfe Plant Hire Ltd • Neil Price Ltd • Sinkfall Recycling Ltd • SUEZ Recycling and Recovery UK Ltd • W G Mackay Ltd 	01/06/2021	31/05/2025	No	Nil	Framework	Hosted in Cumberland
HP Server Support & Maint			30/11/2021	No		Contract	Hosted in Cumberland
ICam Service Contract	ICam Archive Systems Limited	01/10/2022	30/09/2023			Contract	Hosted in Cumberland
ICT Homeworking Equipment Supply	CCS Media		20/06/2022	no No	Nil	Contract	Hosted in Cumberland

IT Service Management Tool	Fruition Partners		07/06/2023	No	Nil	Contract	Hosted in Cumberland
Kendal Fell Transfer Station Contract	Suez Recycling and Recovery Ltd	01/04/2019	31/03/2024	No	24 months taken up in 2022	Contract	Hosted in Cumberland
Kiwi Syslog Server, Kiwi Log Viewer, Virtualisation Mgr VW200, NW Config Mgr DL500	Unipress		20/09/2023	No		Contract	Hosted in Cumberland
Local Data Online Insights Platform	Local Data Online		27/03/2025			Contract	Hosted in Cumberland
Managed Services for Temporary Agency Resources	Randstad Solutions Limited	03/12/2020	28/02/2024	Yes	1 x 12 months used 1 x 12 months used	Contract	Hosted in Cumberland
Materials for Highways Purposes within the County of Cumbria [Raw materials]	<ul style="list-style-type: none"> o Aggregate Industries Ltd o Breedon Southern Ltd o Hanson Quarry Products Europe Ltd TA o Hanson Contracting o James A Jobling & Co Ltd, trading as Jobling Purser o Tarmac Trading Ltd o Tendley Quarries Ltd o D A Harrison o Burlington Aggregates Ltd o Alistair Brown o Instamac Group o Metcalfe Plant Hire Ltd 	01/07/2021	07/08/2024	No		Framework	Hosted in Cumberland

	<ul style="list-style-type: none"> o Pennington Quarries Ltd o Colas Ltd o Meon Ltd o Redstag Materials o Tarmac Building Products 						
Mortuary and Pathology Services - North	NCIC		31/03/2023	Rolling contract	This contract is procured a different way and is covered by a Veat Notice	Contract	Hosted in Cumberland
Mortuary and Pathology Services - South	University Hospitals of Morecambe Bay NHS Foundation Trust		28/02/2023	Rolling contract	This contract is procured a different way and is covered by a Veat Notice	Contract	Hosted in Cumberland
Nightstop Emergency Accommodation service for young people aged 16-24 years (YOUNG PEOPLE)	DePaul UK		31/03/2024	yes	up to 24 months	Contract	Hosted in Cumberland
Open Framework Agreement for the provision of Homecare Services	various	30/08/2019	31/03/2024	No		Framework	Hosted in Cumberland
PayOut Now - Post office cash payments for refugees and vulnerable people	Allpay	13/07/2022	12/07/2023	No	N/A	Contract	Hosted in Cumberland
PDF Creation/Editing Software	Tracker Software		24/10/2023	No	Nil	Contract	Hosted in Cumberland

Property Decorating and Furnishing Packages	Landlord Furniture Packages Uk Ltd	01/07/2021	30/06/2023	No	N/A	Contract	Hosted in Cumberland
Property Maintenance Minor Work	AFM Gas Services Ltd Bay Building Services Ltd Bell Decorating Group BK Builders Ltd Colin Briscoe Construction Ltd CPL Heating and Plumbing Ltd Cubby Construction DLP Services (Northern) Ltd Ductclean (UK) Ltd EE Thompson & Son Ltd em1 Ltd Emchia Asbestos Solutions Enviraz (Scotland) Ltd J&J ELECTRICAL(CUMBRIA)LTD Jennings Roofing Limited LAR Ltd M & J Group (Construction & Roofing) Ltd MDS Ltd Michael Thompson Limited Mitie Property Services (UK) Ltd - Painting Morris & Spottiswood Novus Property		31/08/2023	Yes	2 x 12 months - 1 x 12 months taken	Framework	Hosted in Cumberland

	Solutions Limited PK Engineering Postlethwaite Construction Ltd PPM Ltd Rhodar Ltd Roland Hill Ltd Seddon Construction Ltd Stobbarts Ltd Top Notch Contractors Ltd Trident Maintenance Services Ltd						
ProSolution Sup & Maintenance	Advanced Business Software and Solutions Ltd	09/01/20 22	31/08/23			Contract	Hosted in Cumberla nd
Removal of Dead Bodies on behalf of H M Coroner	Hudsons, Little & Cain, Paul Johnston, Sheldons, Walkers		31/08/20 23	No	2 x 12 month extensions (2 used)	Contract	Hosted in Cumberla nd
RM3808 Network Services II [CFRS - SOAP/XML Gateway iBooking Gateway Annual Service/Hosting]	PageOne Communications Ltd	08/01/20 21	31/07/20 23	No		Contract	Hosted in Cumberla nd
Safeguarding Children's Partnership Board Services Procedures Manual	Tri.x (Signis Limited)	26/08/20 21	28/08/20 23	Annual	12 months rolling	Contract	Hosted in Cumberla nd
SD-WAN hardware plus 5 year maintenance and support	British Telecommunications Plc	30/09/22	10/01/20 27	No		Contract	Hosted in Cumberla nd

Specialised Services in Care Homes			10/10/2024	Yes	2 x 12 months	Framework	Hosted in Cumberland	
Supply of Various Foods	PFD (Carlisle) Ltd		01/08/2022	31/07/2026	No	Framework	Hosted in Cumberland	
Traffic Management within the County of Cumbria [Temporary Traffic Management Services]	<ul style="list-style-type: none"> • Go Traffic Management • Premier Traffic Management • Roadsafe Traffic Management • Sunbelt Rentals Ltd 		01/12/2021	30/11/2025	No	Nil	Framework	Hosted in Cumberland
Traffic Signals Maintenance	Telent Technology Services Limited		01/04/2019	31/03/2023	Yes	3 x 12 months (1 used)	Contract	Hosted in Cumberland
Trauma Recovery and Enhanced Case Management	Northumberland, Tyne and Wear NHS Foundation Trust		01/06/2019	31/03/2020	Annual	Annual rolling	Contract	Hosted in Cumberland
Trend Micro End User Agreement [Trend Portal Protect with DLP for Share-Point (28 months)]	Softcat Ltd		22/04/22	21/04/2023	No	Nil	Contract	Hosted in Cumberland
Valeting and vehicle safety checks for the Council's pool cars	Co-Wheels Car Club Community Interest Company			31/08/2023	Used	Optional 1 year extension to 31/08/2023	Contract	Hosted in Cumberland
VSDM Annuity - Device Manage [included in Corporate Mobile Phone Contract]	Vodafone		30/09/2020	03/11/2023	No	Nil	Contract	Hosted in Cumberland

Waste Project Agreement	Renewi Cumbria Ltd		01/06/2034	Yes	up to 5 years	Contract	Hosted in Cumberland
Youth Sector Infrastructure Support	Cumbria Youth Alliance	01/01/2020	30/06/2023	Yes	1 x 12 months	Contract	Hosted in Cumberland
Cumbria Local Government Reorganisation Support	KPMG	28/01/2022	30/09/2022	No		Contract	Hosted in Cumberland
Advocacy Services Lot 1 Independent Mental Capacity Act (IMCA); Healthwatch; Care Act Advocacy; NHS Complaints	People First Independent Advocacy		31/05/2023	Yes	2 x 12 months 1 12 month used	Contract	Hosted in Westmorland and Furness
Advocacy Services Lot 2 Independent Mental Health Advocacy	N-COMPASS - TOWARDS A BRIGHTER FUTURE		31/05/2023	Yes	2 x 12 months 1 x 12 month used	Contract	Hosted in Westmorland and Furness
Banking Services	Royal Bank of Scotland PLC	04/01/2018	30/09/2023	No		Contract	Hosted in Westmorland and Furness
Biodiversity Net Gain Support for the two new Local Authority Unitary Councils	Ricardo-AEA Ltd	01/02/2023	30/06/2023	No		Contract	Hosted in Westmorland and Furness
Careers, Information, Advice and Guidance (CIAG)	Inspira	04/01/2015	31/03/2023	No	To be extended to Sep 2023	Contract	Hosted in Westmorland and Furness
Carer's Addiction Support Service	The Well Communities CIC	01/07/2021	30/11/2025	Yes	1 x 12 months	Contract	Hosted in Westmorland and Furness

CEMAR Contract Management Software Contract	Think Project UK Ltd	11/11/2019	11/10/2023	Yes	2 x 12 month extension (both used)	Contract	Hosted in Westmorland and Furness
Changing Futures Lived Experience Network	The Well Communities CIC	23/05/2022	31/03/2024	No	12 months used	Contract	Hosted in Westmorland and Furness
Contract Management	Proactis - Due North Ltd		31/07/2023	No		Contract	Hosted in Westmorland and Furness
Cumbria Telecare and Assistive Technology Service	DORO Care (UK) Limited	07/01/2022	30/06/2025	Yes	2 x 12 months	Contract	Hosted in Westmorland and Furness
Data Entry to Traveline National Database (TNDS)	Telephone Information Masters		12/05/2022	No	None	Contract	Hosted in Westmorland and Furness
E-Procurement Systems	Proactis - Due North Ltd	01/08/2015	31/07/2023	No	4 x 12 months taken	Contract	Hosted in Westmorland and Furness
Family Autism Support	Carlisle Mencap		31/01/2025	Yes	2 x 12 months	Contract	Hosted in Westmorland and Furness
For the Procurement of Capital Highway and Property Works within the County of Cumbria (Capital Works Framework)	A E Yates Ltd BDB Special Projects Ltd Bethell Group Plc Cubby Construction Ltd DSD Construction Ltd Eric Wright Civil Engineering Ltd Eric Wright Construction	01/02/2020	31/01/2024	No		Framework	Hosted in Westmorland and Furness

	Ltd Esh Construction Ltd Jacobs Field Services Ltd JN Bentley Ltd Lambert-Gill Ltd Leck Construction Ltd Metcalf Plant Hire Ltd Michael Thompson (Public Works Contractors and Engineers) Ltd Morris & Spottiswood Ltd F Parkinson Ltd R Developments Ltd Roland Hill (Parsonby) Ltd Stobarts Ltd Story Contracting Limited Thomas Armstrong (Construction) Ltd Top Notch Contractors Ltd							
For the Supply of Operated Plant within the County of Cumbria	A Clive Cubby DSD G Lund IT JCS John Metcalfe Metcalfe Plant Hire Ltd Toman Contracting Ltd TT Ward Plane Brown Hurt Ltd Ltd Ltd Ltd Kirkbride	12/09/2021	31/07/2025	No	Nil	Framework	Hosted in Westmorland and Furness	

FRAMEWORK - Utilities Contract Gas	Corona Energy Retail 4 Limited		31/03/2025	No	Nil	Contract	Hosted in Westmorland and Furness
Framework for Verge Maintenance and Arboricultural works	C Davidson Contractors Tyla Services Limited Ashlea Ltd Eden Woodland Consultants Greaves Tree Services Orchard Tree Surgery	01/07/2020	30/04/2024	Yes	2x 12 months (2 x 12 taken up)	Framework	Hosted in Westmorland and Furness
Instant Atlas Provision	Esri UK Ltd	01/08/2022	31/07/2023	No	Nil	Contract	Hosted in Westmorland and Furness
Integrated Sexual Health Services			30/09/2023	Yes	12 months	Contract	Hosted in Westmorland and Furness
JCT Measured Term Contract 2016 [Reactive Maintenance & Servicing Programme]	Integral UK Ltd	01/06/2020	31/03/2024	Yes	2 x 12 month extensions available - 1 extension taken	Contract	Hosted in Westmorland and Furness
Mediation and Disagreement Resolution Service	Collis Mediation Ltd	01/04/2020	31/03/2024	No	1 x 12 months used	Contract	Hosted in Westmorland and Furness
Mobility & Independence Services	The Guide Dogs for the Blind Association	04/01/2018	31/03/2023	yes	1 x 12 months	Contract	Hosted in Westmorland and Furness
Non-Operated Plant	<ul style="list-style-type: none"> A-Plant Limited GAP Group Limited 	01/02/2020	31/01/2024	No	Nil	Framework	Hosted in Westmorland and Furness

Occupational Therapy Services	NCIC		31/12/2024	Yes	12 months	Contract	Hosted in Westmorland and Furness
Online Emotional Support Service	XenZone Limited NOW KNOWN AS Kooth Digital Health Limited	01/01/2020	31/12/2023	Yes	2 x 12 months taken	Contract	Hosted in Westmorland and Furness
Open Framework Agreement for supported living for people with a learning disability, mental health problem, autism or a physical/sensory impairment		14/04/2022	13/04/2026	No		Framework	Hosted in Westmorland and Furness
Prepaid Cards	Allpay Ltd					contract	Hosted in Westmorland and Furness
Provision of HR Administration and Payroll Services for Non Cheque Book Maintained Schools in Cumbria	Capita Business Services Ltd & North Yorkshire County Council	01/06/2020	31/03/2024	No	N/A	Framework	Hosted in Westmorland and Furness
Services Agreement relating to the Provision of Building Cleaning Services [For Corporate Properties]	Orian Solutions Ltd	01/04/2022	31/03/2024	Yes	1 X 12 months	Contract	Hosted in Westmorland and Furness
Speech and Language Therapies (Children's Services SEND)	NCIC		31/12/2024	Yes	12 months	Contract	Hosted in Westmorland and Furness
Transport DPS (for use in all areas)	Various		21/04/2025	No		Framework	Hosted in Westmorland and Furness

Vehicle Lease, Fleet Management & Flexible Rental Solutions_RM6096 [Lease Hire of up to 45x 3.5t Pickups (5 year term)]	Kinto		31/10/2026	No		Contract	Hosted in Westmorland and Furness
Vehicle Lease, Fleet Management & Flexible Rental Solutions_RM6096 [Lease Hire of Vehicles for CES (4 year term)]	Kinto & TCH Leasing		30/09/2025	No		Contract	Hosted in Westmorland and Furness
Shared Cost AVC's	AVC Wise Limited	18/11/2019	17/11/2022	Annual		Contract	Hosted in Westmorland and Furness
HR advice and information	XpertHR	22/06/2022	23/06/2022			Contract	Hosted in Westmorland and Furness

Part B – Hosted Contract Schedules

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Cumberland Shadow Executive

28th March 2023

Cumbria County Holdings – Shareholder Agreement

Report from:	Leader of the Council
Report Author:	Monitoring Officer
Wards:	All Wards
Key Decision:	Issue Is Not a Key Decision

1.0 Purpose/Summary of report

- 1.1 From 1 April 2023 Cumberland Council and Westmorland and Furness Council will each own 50% of the shares in Cumbria County Holdings Limited ("CCH") which is a holding company of a trading group (the "Group").
- 1.2 The purpose of the report is to recommend entering into a shareholders agreement with Westmorland and Furness Council and CCH (the "Shareholders Agreement") which sets out the terms upon which the company and its subsidiaries and the two Councils, as shareholders, shall exercise their rights in relation to the Group.

2.0 Recommendation

It is recommended that:

- 2.1 The Executive approve entering into a shareholders agreement with Westmorland and Furness Council and CCH which sets out the terms upon which CCH and its subsidiaries and the two Councils, as shareholders, shall exercise their rights in relation to the Group.
- 2.2 The Executive delegates to the s151 Officer in consultation with the Leader and the Executive Member for Finance to agree the final terms of the Shareholders Agreement.
- 2.3 The Executive delegates to the s151 Officer in consultation with the Leader and the Executive Member for Finance to approve changes to

the articles of association of CCH and its subsidiaries to reflect the terms of the Shareholders Agreement.

3.0 Background and Proposals

The Group

- 3.1 CCH is currently a wholly owned subsidiary of Cumbria County Council. It is the holding company for two operating groups of subsidiary companies. Cumbria Waste Group is the largest provider of waste management and recycling services to both local authority and trade customers in Cumbria. Orian Solutions Group is a leading regional provider of soft facilities management services to schools and commercial customers. Each trading Group has a principal trading company which is a 100% subsidiary of CCH, being Cumbria Waste Management Limited ("CWM") and Orian Solutions Limited ("Orian") respectively.
- 3.2 CWM has two wholly owned subsidiaries and an associated undertaking. These are Cumbria Waste Recycling Limited ("CWR") which focuses on domestic and commercial recycling and Lakeland Waste Management Limited ("LWM") which operates a site near Penrith and holds a 50% shareholding in Lakeland Minerals Limited which operates a sand quarry.
- 3.3 Orian is focussed on two core areas of activity. The cleaning division provides cleaning services to schools, commercial offices and public buildings. This includes the activities of SLS (Cumbria) Limited which is focussed on the leisure and tourism sector and, in particular the provision of services to holiday homeowners. This business trades as "Orian Property Services". The foodservice division delivers school meals to the primary and secondary school sectors. There is also a specialist services division which delivers a range of services including school crossing patrols, fire safety services, high level cleans, builders cleans and other similar activities.
- 3.4 The activities of the Waste Group are focussed on Cumbria, but Orian has a significant trading presence outside the county, in particular in the North West and North East of England.
- 3.5 The Group operates on a commercial basis as a for profit company.

The Shareholders Agreement

- 3.6 The proposed Shareholders Agreement sets out the terms upon which the CCH and the two Councils as shareholders will exercise their rights in relation to the Group. Currently there is no Shareholders Agreement in place between Cumbria County Council, as shareholder and CCH. The rights of Cumbria County Council as shareholder (including shareholder reserved matters) are set out in the Articles of Association of CCH and its principal subsidiaries, CWM and Orian.
- 3.7 It is important that the rights of the two shareholders and CCH are clearly set out, especially as there will no longer be a single shareholder, to ensure the Group can continue to operate effectively on a day-to-day basis with the directors having the powers to take all necessary decisions, whilst ensuring the Councils, as shareholders, retain control of the strategic direction of the Group and receive the information and support they need to exercise that control. It also sets out how the two shareholders will work together to exercise their joint control over the Group.
- 3.8 The Shareholders Agreement sets out certain reserved matters which cannot be agreed without the consent of the two Councils as shareholders but subject to this makes it clear that the responsibility for the day-to-day supervision and management of the Group rests with the directors of the Company. Shareholder reserved matters will require the agreement of both shareholders.
- 3.9 The Shareholders Agreement also includes provisions setting out what information will be provided by CCH to the Shareholders including an annual Business Plan and the provision of accounting and other financial information to ensure the Shareholders have the information necessary to exercise their rights as shareholders and to make informed decisions.
- 3.10 Each Council will be appointing a Shareholder Representative who has the delegated authority to exercise the rights of the Council as shareholder in CCH. The Shareholders Agreement provides for a Joint Shareholder Board to be established to advise the Shareholder Representatives appointed by each Council, in the exercise of their responsibilities in that capacity. It is proposed that this Board will have no remit as a decision-making body and that the membership will comprise two Members and two Officers from each Council and that other officers and the directors of the Group can be invited to attend to assist the members of the Board as required.

3.11 The proposed Shareholders Agreement covers matters such as the appoint of directors and shareholder reserved which are currently set out in the Articles of Association of CCH and its principal subsidiaries. As a result, it will be necessary to make changes to the Articles of Association to remove those provisions which will instead be covered in the new Shareholders Agreement to avoid duplication.

4.0 Consultation

4.1 The directors of CCH have been consulted on the proposed governance arrangements relating to the group.

5.0 Alternative Options

5.1 The Council could decide not to enter into the Shareholders Agreement and make the consequential changes to the Articles of Association. They would then need to rely on the existing rights of the shareholders in the Articles of Association but these were drafted at a time when there was a single shareholder and so do not clearly set out the relationship between the two shareholders. This could result in lack of clarity and could make it more difficult for the Group to operate effectively on a day-to-day basis whilst ensuring the Council as shareholder can retain control jointly with Westmorland and Furness Council on the strategic direction of Group.

6.0 Implications

Financial, Resources and Procurement

6.1 The proposed governance arrangements proposed in their report have no direct financial implications

Human Resources

6.2 There are no HR concerns of this recommendation which facilitates efficient operation of Cumbria County Holdings.
Alice Madden 15/03/23

Legal

- 6.3 The Section 16 Agreement which Cabinet are asked to agree at this meeting provides for the transfer of 50% of the shares in CCH to the Council and 50% of the shares to Westmorland and Furness Council.
- 6.4 As shareholders in the CCH the two Councils will have certain rights including rights in relation to the reserved matters (which are matters requiring shareholder approval) which are currently set out in the Articles of Association of CCH and its principal subsidiaries.
- 6.5 The proposed Shareholders Agreement set out the terms upon which CCH and its subsidiaries and the two Councils, as shareholders, shall exercise their rights in relation to the company and will ensure the arrangements are updated to reflect the new ownership structure (with two shareholders not a single shareholder) and to ensure that the shareholders are kept up to date on the business of the Group and the directors of the Group are free to make decisions on the management of the business of the Group on a day to day basis.

Health and Sustainability Impact Assessment

- 6.6 Have you completed a Health and Sustainability Impact Assessment?
No
- 6.7 If you have not completed an Impact Assessment, please explain your reasons: There are no Health and Sustainability Impacts arising out of the recommendations in this report.

Equality and Diversity

- 6.8 Have you completed an Equality Impact Analysis? No
- 6.9 If you have not completed an Impact Analysis, please explain your reasons: There are no equality impacts arising out of the recommendations in this report.

Contact Officers

Clare Liddle Monitoring Officer

Appendices Attached to this Report

No appendices attached

Background Documents Available

None

Cumberland Shadow Executive

28th March 2023

Service Level Agreements with Cumbria Commissioner Fire and Rescue Authority.

Report from:	Leader of the Council
Report Author:	Monitoring Officer
Wards:	All Wards
Key Decision:	Issue Is Key Decision

1.0 Purpose/Summary of report

- 1.1. The purpose of the report is to recommend entering into two agreements with Westmorland and Furness Council and the Cumbria Commissioner Fire and Rescue Authority (CCFRA) for the provision of services for a temporary period from 1 April 2023 by Cumberland Council and Westmorland and Furness Council to CCFRA and by CCFRA to Cumberland Council and Westmorland and Furness Council.
- 1.2. The agreements are drafted on the basis that the Councils and CCFRA will continue to receive the same services to the same level of performance at no additional cost.

2.0 Recommendation

It is recommended that the Shadow Executive:

- 2.1. Approves entering into a contract with Westmorland and Furness Council and CCFRA for the provision of certain services by Cumberland Council and Westmorland and Furness Council to CCFRA as set out in that contract and a second contract with Westmorland and Furness Council and CCFRA for the provision of services relating to driver training from the CCFRA to Cumberland Council and Westmorland and Furness Council (together the "Service Level Agreements").

- 2.2. Delegates authority to the Monitoring Officer, following consultation with the Leader, to agree final terms of the Service Level Agreements and execute the same.

3.0 Background and Proposals

- 3.1. The Police, Fire and Crime Commissioner for Cumbria (Fire and Rescue Authority) Order 2022 provides for the creation of the Cumbria Commissioner Fire and Rescue Authority under the governance of the Police and Crime Commissioner for Cumbria which will take over fire and rescue functions in Cumbria from 1 April 2023.
- 3.2. The Council has been working with Westmorland and Furness Council, the Office for the Police and Crime Commissioner and the sovereign Councils to ensure that two sustainable Councils, together with a sustainable Fire and Rescue Service are delivered from 1 April in an economic, efficient, effective, safe, legal and seamless fashion.
- 3.3. Where possible this has involved the disaggregation of services so that the two Councils and the new CCFRA operate on a stand-alone basis with their own services. However, it has been recognised that certain services will need to be provided on a hosted basis for a period of time to ensure the continued delivery of services to the successor authorities to ensure they can continue to operate on a safe and legal basis and to allow additional time for services to be split in a way which ensures continue delivery to the three successor bodies.
- 3.4. It is proposed that Cumberland Council will provide the following services for the CCFRA, those which are indicated below will be provided jointly with Cumberland Council:-
 - 3.4.1. ICT
 - 3.4.2. Records Management
 - 3.4.3. Payroll and Payroll Administration
 - 3.4.4. HR Systems
 - 3.4.5. Recruitment Administration (centralised resourcing).
 - 3.4.6. Fleet Management and Support (jointly with Westmorland and Furness Council)
 - 3.4.7. Legal and Democratic (jointly with Westmorland and Furness Council)
- 3.5. It has been agreed in addition that Westmorland and Furness Council will provide the following services for the CCFRA

- 3.5.1. Occupational Health
 - 3.5.2. Apprenticeship Service
 - 3.5.3. Finance Systems
 - 3.5.4. Pay and Reward
 - 3.5.5. Fleet Management and Support (jointly with Cumberland Council)
 - 3.5.6. Legal and Democratic Services (jointly with Cumberland Council)
- 3.6. The CCFRA will host driver training on behalf of Westmorland and Furness Council and Cumberland Council.
- 3.7. It is proposed that all hosted services will be provided on the basis that service provision will continue to the same level as is currently provided and at the same cost (subject only to increases relating to inflation and pay settlements).
- 3.8. Two Service Level Agreements have been prepared. The first will cover the provision of services from Westmorland and Furness Council and Cumberland Council to CCFRA. The second will cover the provision of services from CCFRA to Westmorland and Furness Council and Cumberland Council. Both Service Level Agreements are drafted on the basis set out in 3.7 above. These are being agreed with the PCC on behalf of CCFRA. The final terms are still subject to final agreement.
- 3.9. The Service Level Agreements include detailed schedules which set out the services to be provided, service planning, performance standards and reporting and other key information related to the staffing including data controller arrangements, staffing, assets, key contracts, the proposed period of the hosting arrangement and, where possible details of how it is proposed the service will be disaggregated.

Governance

- 3.10. The SLAs provide for a board to be established with officers from each of the CCFRA, Westmorland and Furness Council and the Council. This board will be responsible for overseeing the effective delivery of the hosted services and helping to provide strategic direction including overseeing proposals in relation to disaggregation of the hosted services.

4.0 Consultation

- 4.1. Individual services have been consulted on the terms of the service schedules relating to the individual services.

5.0 Alternative Options

- 5.1. If the SLAs are not agreed the CCFRA and the two Councils will not have sufficient resources and capacity to continue to operate on a safe and legal basis on 1 April 2023. There is insufficient time to put in alternative arrangements prior to 1 April 2023.

6.0 Implications

Financial, Resources and Procurement

- 6.1. The Service Level Agreements and associated schedules set out the services that are to be provided and include the financial management arrangements that will be in place. These services will be provided on the basis that service provision will continue to the same level as is currently provided and at the same cost (subject only to increases relating to inflation and pay settlements).
- 6.2. Final terms are still subject to final agreement. If the Service Level Agreements cannot be agreed prior to 1 April 2023, this could require services to either be split without the necessary service planning time, or, to be provided under the hosted arrangement without a formal agreement and therefore without any agreed joint financial arrangements in place. Agreeing the recommendations set out in this report will provide the necessary delegated authority for the agreements to be completed prior to 1 April 2023. This will ensure that these potential financial implications are avoided and that sound financial arrangements will be in place, as part of the Service Level Agreements, to protect the Councils financial position.

Human Resources

- 6.3 The recommendation supports safe and legal operation of key services for day 1 and beyond. The HR implications for Day 1 have been worked through to ensure safe and legal transition. When these arrangements come to an end, the HR implications will include potential for TUPE to fully disaggregate services. This will require detailed consideration when this occurs and appropriate consultation

and engagement with key stakeholders including Trades Unions and the workforce.

Alice Madden 15/3/23

Legal

- 6.4 The decision as to whether to enter into the SLAs with CCFRA and Westmorland and Furness Council is properly a decision for the Executive.

Health and Sustainability Impact Assessment

- 6.5 Have you completed a Health and Sustainability Impact Assessment?
No
- 6.6 If you have not completed an Impact Assessment, please explain your reasons: There are no health and sustainability impacts arising out of the recommendations in this report.

Equality and Diversity

- 6.7 Have you completed an Equality Impact Analysis? No
- 6.8 If you have not completed an Impact Analysis, please explain your reasons: There are no equality impacts arising out of the recommendations in this report.

Contact Officers

Clare Liddle, Monitoring Officer

Appendices Attached to this Report

None

Background Documents Available

None

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Cumberland Shadow Executive

28th March 2023

Collaboration Agreements, Memoranda of Understanding and Delegations to Statutory Officers

Report from:	Leader of the Council
Report Author:	Monitoring Officer
Wards:	All Wards
Key Decision:	No

1.0 Purpose/Summary of report

- 1.1 The purpose of the report is to recommend entering into agreements with Westmorland and Furness Council under which the parties will collaborate and work together in the management of certain framework agreements taken over from Cumbria County Council, a Memorandum of Understanding in relation to data sharing, an agreement for the shared occupation of council offices and a Service Level Agreement under s113 Local Government Act 1972. Delegated authority is requested for the Monitoring Officer to agree final terms.
- 1.2 The report also requests delegated authority to each of the s 151 Officer, the Chief Executive and the Monitoring Officer, following consultation with the relevant Portfolio Holder, for the period up to the 1 April 2023 to take such steps, including incurring of any expenditure if necessary and entering into any agreements with Westmorland and Furness Council in relation to future collaboration, as may be required to ensure that the Council and Westmorland and Furness Council can deliver economic, efficient, effective, safe and legal services from 1 April 2023.

2.0 Recommendation

It is recommended that the Executive:

- 2.1 Agrees to enter into an agreement with Westmorland and Furness Council (the "Framework Collaboration Agreement") under which the

councils will collaborate in the management of the Framework Agreements taken over from Cumbria County Council;

- 2.2 Delegates authority to the Monitoring Officer to agree the final terms, following consultation with the Leader and Chief Executive, and execute the Framework Collaboration Agreement;
- 2.3 Delegates authority to the Monitoring Officer, following consultation with the Leader and Chief Executive, to agree final terms and execute the Accommodation Agreement, the Section 113 Local Government Act Agreement and the Data Sharing Memorandum of Understanding; and
- 2.4 Delegates to each of the s 151 Officer, the Chief Executive and the Monitoring Officer, following consultation with the relevant Portfolio Holder, for the period up to the 1 April 2023 the authority to take such steps, including incurring of any expenditure if necessary and entering into any agreements with Westmorland and Furness Council in relation to future collaboration, as may be required to ensure that the Council and Westmorland and Furness Council can deliver economic, efficient, effective, safe and legal services from 1 April 2023.

3.0 Background and Proposals

Framework Collaboration Agreement

- 3.1 Cumbria County Council has in place a number of Framework Agreements which are fundamental to the delivery of some of its key services including domiciliary care, highways works and transport. In preparation for the dissolution of the County Council the management of the Framework Agreements is being divided between the two successor authorities.
- 3.2 Framework Agreements enable identified purchasers, in addition to the managing authority, to buy services, goods or works from the suppliers who are part of the Framework Agreement. If an Authority selects to use a Framework it follows the process set out within the Framework Agreement to award contracts to the suppliers. Where a supplier is selected a standalone contract is entered into between the purchaser and the supplier. There is no obligation on the authority to use any of the Frameworks identified in the collaboration agreement.

- 3.3 As Framework Management can involve adding and removing suppliers from the Framework, controlling which provider can bid for work and amending its terms it is proposed the two Authorities enter into a collaboration agreement to help facilitate such management. The only resource requirement of the proposed agreement is officer time in attending any management meetings which will vary between each individual framework.

Section 113 Local Government Act 1972 Agreement

- 3.4 As part of the exercise in which County Council staff were allocated to one of the two new authorities, it became apparent that a small number of employees held particular roles or skills which meant that an allocation to one authority would leave the other exposed to risk in terms of service delivery or skills shortage.
- 3.5 As a result, the authorities are asked to agree that these staff are shared for a period of time until recruitment or training is able to take place. This would mean that an employee may be employed by Cumberland Council but also provide a service to Westmorland and Furness, or vice versa.
- 3.6 The arrangements which could be put in place to govern the shared roles, enabling the authorities to work effectively together, with appropriate protections in place for each, are currently being negotiated and developed. It is proposed that an agreement is entered into pursuant to s113 of the Local Government Act 1972 and that the costs of the shared roles are met equally between both authorities (unless there are service specific arrangements in place to the contrary)

Accommodation Agreement

- 3.7 In order that staff across the two authorities can continue to work in the same offices and buildings as previously, it is proposed that reciprocal arrangements are put in place for the sharing of the following buildings:
- 3.7.1 Cumberland:
- Cumbria Archive and Local Studies Centre, Whitehaven;
 - Cumbria House, Carlisle;
 - Lillyhall Depot, Workington;
 - Parkhouse Building, Carlisle;

- Townfoot Depot, Brampton;
 - West Cumbria House, Workington
- 3.7.2 Westmorland and Furness:
- Bridge Mills, Kendal;
 - Craven House, Barrow in Furness;
 - Kendal County Hall;
 - Kendal Day Care Centre;
 - Kendal Library;
 - Nan Tait, Barrow in Furness;
 - Skirsgill Depot, Penrith.
- 3.8 It is proposed that the arrangement will last for up to five years, subject to either Council having the right to terminate the licence on the second, third or fourth anniversary, giving no less than 12 months' prior written notice.
- 3.9 The proposed licence terms include:
- 3.9.1 Unrestricted access to the named buildings during normal operating hours for the purpose of delivering each Council's functions;
- 3.9.2 There will be no licence fee or service charge payable initially, although it is proposed that after two years an assessment of use is made, and a reasonable annual service charge is agreed in respect of all the named buildings;
- 3.9.3 Reprographics and printing costs will be captured by each Council's ICT teams and recharges at the same rate as the Licensor will recharge its own internal teams.

Data Sharing Memorandum of Understanding (MoU)

- 3.10 A memorandum of understanding is required to support the sharing of data in accordance with the requirements of the UK General Data Protection Regulation (UKGDPR) and the Data Protection Act 2018. The scope of the document is limited to services not covered by the Inter-Authority Agreements for each authority, and their transitional management, beyond Vesting Day.
- 3.11 The MoU shall come into effect on 1st April 2023 and, in effect, covers the sharing of data, both electronic and manual, between the two authorities.
- 3.12 The authorities will review the MoU under the direction of the Senior Information Risk Owner for each authority and shall continue, amend

or terminate it depending on the outcome of the review. The MoU will expire on 1st April 2025 unless extended, and should be read alongside the Inter Authority Agreements.

Delegated Authority

- 3.13 As part of the LGR planning process it has been identified that some services should be hosted by one of the two authorities either to provide time until any dependencies are resolved to support a future split or in the medium or longer term because splitting them is impractical or undesirable from a cost or service delivery perspective. Members will be asked to consider a separate report on the Inter Authority Agreement at this meeting.
- 3.14 In addition to the hosted services some roles have been identified as shared roles as set out earlier in this report.
- 3.15 In addition to the hosted services and the shared roles there will need to be collaboration and cooperation between the two Councils in relation to the delivery of some services in order to ensure that both Councils can continue to be able to ensure that all services are delivered from vesting day in an economic, efficient, effective, safe and legal basis.
- 3.16 Under the Shadow Constitution, limited decision making is delegated to officers and, therefore, in order to ensure that all necessary steps can be taken as the two Councils approach the deadline of 1 April 2023 it is recommended that authority is given to the Statutory Chief Officers to ensure all arrangements and agreements can be put in place to deliver safe and legal services from day 1. This delegated authority is only proposed to be for a temporary period to allow decisions to be taken at short notice prior to 1 April 2023 where those decisions cannot be delayed until after 1 April 2023. From 1 April 2023 the Statutory Officers will have broad delegated powers under the new constitution.

4.0 Consultation

- 4.1 Those staff whose roles are proposed to be shared have been consulted as part of the allocation exercise. The Trades Union have also been involved in this exercise. No consultation has been carried out on the other matters in this report.

5.0 Alternative Options

- 5.1 The Council could decide not to enter into the Agreements described in this report, however, that would put the Council at risk in regard to procurement of goods and services at preferential rates, staff resource and capacity to deliver services, data breaches and loss of rights to use accommodation.
- 5.2 The Council could decide not to delegate authority to the Statutory Officers but there is a risk that it will not be possible to put in place all agreements and arrangements necessary to ensure the two Councils can operate on a safe and legal basis from day 1.

6.0 Implications

Financial, Resources and Procurement

- 6.1 The recommendations within this report will enable collaboration and cooperation between the two councils to ensure we can continue to deliver all services from vesting day in an economic, efficient, safe, and legal basis. It also delegates responsibility to the Chief Executive/ S151 / MO in consultation with the relevant PH to incur expenditure and enter into any agreements.

Human Resources

- 6.2 There are no specific HR concerns regarding the recommendation which will support safe and legal delivery of service for day 1.

Alice Madden 15/3/23

Legal

- 6.3 The legal implications of the proposals are discussed in the main body of the report.

Health and Sustainability Impact Assessment

- 6.4 Have you completed a Health and Sustainability Impact Assessment? No

- 6.5 If you have not completed an Impact Assessment, please explain your reasons: There are no health and sustainability impacts arising out of the recommendations in this report.

Equality and Diversity

- 6.6 Have you completed an Equality Impact Analysis? No

- 6.7 If you have not completed an Impact Analysis, please explain your reasons:

There are no equality impacts arising out of the recommendations in this report.

Contact Officers

Clare Liddle, Monitoring Officer

Appendices Attached to this Report

Background Documents Available

None

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Cumberland Shadow Executive

27th March 2023

Collaboration Agreement - Coroner Services

Report from:	Cllr Lisa Brown, Deputy Leader (Statutory)
Report Author:	Clare Liddle Monitoring Officer
Wards:	All Wards
Key Decision:	Yes

1.0 Purpose/Summary of report

- 1.1. The purpose of the report is to recommend entering into an agreement with Westmorland and Furness Council (the "Collaboration Agreement") under which the parties nominate Cumberland as the Relevant Authority for the coroner area of Cumbria and which sets out the arrangements and general terms on which Westmorland and Furness Council will assist Cumberland with the facilitation of the Coroners Service in Cumbria.

2.0 Recommendation

It is recommended that Shadow Executive:

- 2.1. **Confirms the nomination of Cumberland Council as Relevant Authority for the coroner area of Cumbria and agrees to enter into a Collaboration Agreement with Westmorland and Furness Council which sets out the arrangements and general terms on which the councils will cooperate, including paying an agreed share of the costs and reciprocal obligations.**
- 2.2. **Delegate authority to the Monitoring Officer, following consultation with the Deputy Leader (Statutory) to agree and execute the final terms of the agreement.**

3.0 Background and Proposals

- 3.1. Under Paragraph 3(3), Schedule 2 of the Coroners and Justice Act 2009 ("CJA 2009"), Cumberland and Westmorland and Furness Councils must jointly

nominate one of the authorities to be the Relevant Authority for the Coroners Service in Cumbria.

- 3.2. The Relevant Authority is required under the CJA 2009 to provide support to the Coroners Service in Cumbria including providing staff and management, office accommodation and courts and facilities including property maintenance, ICT equipment and support, financial services including financial management, provision of insurance, procurement and commissioning, liaison with other services, payments and petty cash, funding, car parking, inquest support, emergency planning and mass fatalities / DVI support if required, management of the removal of bodies contract, mortuary and pathology provision, liaison with stakeholders such as the MOJ, Remuneration of HM Coroners and expenses, expert witnesses, specialist reports, jury costs, investigations, post mortems, toxicology and histology.
- 3.3. The authority which has not been nominated as Relevant Authority has no obligations under the CJA in relation to the provision of officers, staff or accommodation.
- 3.4. The Relevant Authority also has statutory duties and powers under Schedule 3 of the CJA 2009 in relation to: the appointment and terms of appointment of a senior coroner in the Coroner Area and, if applicable, the appointment and terms of appointment of area coroners and assistant coroners; the resignation of the senior coroners and any area or assistant coroners. The Relevant Authority has a statutory duty to consult with the other authorities in the area before making an appointment of a senior coroner.
- 3.5. Shadow Executive agreed in September 2022 that Cumberland Council would be the nominated authority and it is now proposed that the two Councils enter into a Collaboration Agreement which confirms the nomination and the arrangements and general terms on which the Councils will cooperate.
- 3.6. Under the Collaboration Agreement Westmorland and Furness Council agrees to pay 45% of the costs relating to the provision of the Coroners Service in Cumbria. Cumberland Council agrees to provide the services to the Coroners Service as set out in the CJA 2009 and provide certain information to Westmorland and Furness Council in relation to the provision of those services and the costs.

4.0 Consultation

- 4.1. Consultation has taken place with the Coroner in relation to the arrangements for continued support to the Coroners Service in Cumbria. The decision that Cumberland would be the Relevant Authority was reviewed by the Members

Implementation Board in July and August 2022 and approved by Executive in September 2022 subject to the agreement of a detailed individual Service Specific agreement.

5.0 Alternative Options

- 5.1. The Councils are required to nominate one of the two authorities to be the Relevant Authority. If the two Councils cannot agree on a nomination the Lord Chancellor must determine which authority will act as the Relevant Authority. The Councils could decide to not make a nomination and leave it to the Lord Chancellor to determine.

6.0 Implications

Financial, Resources and Procurement

- 6.1 The Collaboration Agreement sets out the arrangements and general terms on which the Councils will cooperate, under which Westmorland and Furness Council agree to pay 45% of the costs relating to the provision of the Coroners Service in Cumbria. This is in-line with the approach taken in developing the Cumberland Council revenue budget and Medium Term Financial Plan (MTFP).
- 6.2 Agreeing the recommendations set out in this report will provide the necessary delegated authority for the agreements to be completed prior to 1 April 2023, which will ensure sound financial arrangements will be in place to protect Cumberland Councils financial position.

Human Resources

- 6.3 This report raises no direct HR implications.

Legal

- 6.4 The legal requirements relating to the requirement for the Council and Cumberland Council to nominate a Relevant Authority for the Coroners Area and the duties and powers of the Relevant Authority are discussed in the main body of the report.

Health and Sustainability Impact Assessment

- 6.5 Have you completed a Health and Sustainability Impact Assessment? No
- 6.6 If you have not completed an Impact Assessment, please explain your reasons: There are no health and sustainability impacts arising out of the recommendations in this report.

Equality and Diversity

- 6.7 Have you completed an Equality Impact Analysis? No
- 6.8 If you have not completed an Impact Analysis, please explain your reasons: There are no equality impacts arising out of the recommendations in this report.

Contact Officers

Clare Liddle, Monitoring Officer

Appendices Attached to this Report

None

Background Documents Available

None

Cumberland Shadow Executive

27 March 2023

Cumberland Constitution – Executive Arrangements

Report from:	Cllr Lisa Brown, Deputy Leader (Statutory)
Report Author:	Monitoring Officer
Wards:	All Wards
Key Decision:	No

1.0 Purpose/Summary of report

- 1.1. The new Cumberland Constitution was approved by the Shadow Authority on 26th January 2023. The purpose of this report is to seek approval for those parts that are Executive functions.

2.0 Recommendations

- 2.1 It is recommended that Shadow Executive note and endorse the executive elements of the Constitution to include:-

(1) Frequency and location of meetings;

(2) Creation of Executive Committees and the relevant Constitutional provisions;

(3) Establishment of a Joint Executive Committee (and Joint Overview and Scrutiny Committee), and the period for which each authority should chair the joint committee; and

(4) Officer Scheme of Delegation

- 2.2 Any further changes be delegated to the Monitoring Officer following consultation with the Leader.

- 2.2 Reason for recommendations: Cumberland Council is required to have a constitution and it is essential that there are appropriate delegations and governance arrangements to allow services to be delivered.

3.0 Background

- 3.1 The Council is required by Section 9P of the Local Government Act 2000 to have a Constitution. At its meeting on 26th January 2023, the Shadow Authority for Cumberland approved a new Constitution which will come into effect on 1st April 2023.
- 3.2 Although the Shadow Authority approved the Constitution, some of the powers relate to executive functions and, therefore, also require Executive approval. The new Council will operate a Leader and Executive hybrid model of governance, which has both an Executive and Scrutiny function, but also creates Executive Committees to inform decision making and policy development.
- 3.3 This report provides further detail around the executive decision making framework.

Frequency and location of Executive meetings

- 3.4 The Constitution provides that the Executive will meet in accordance with the agreed published Calendar of Meetings, which is due to be agreed at Annual Council this year.
- 3.5 The draft calendar provides for meetings every four weeks, with a break during the month of August. Four weekly meetings are suggested because of the likely workload during the initial year however it is proposed that this frequency is reviewed in September 2023.
- 3.6 Executive meetings are proposed to take place at Council-owned locations (to reduce cost) around the Cumberland district. Owing to difficulties with public access and car parking, however, it is not proposed to use the Copeland Centre.

Creation of Executive Committees

- 3.7 It is proposed that four Executive Committees are established by the Executive. These will be chaired by the relevant Portfolio Holder and may comprise such members of the Executive as the Executive may decide.
- 3.8 Cross party involvement is recommended to ensure that all members' skills and knowledge are utilised to make a significant contribution to effective decision making. Such other members may contribute to the discussion but may not vote.
- 3.9 The proposed Executive Committees are as follows:
 - a. Highways and Transport Strategic Board: This is to enable those decisions which are not delegated to Community Panels to be made by an Executive member under advice from Community Panel Chairs and Vice-Chairs and relevant officers;
 - b. Nuclear Issues Board: The Executive may invite any other member or officer who it considers has the necessary skills, expertise and interest to inform decision making, consultation responses and policy development;
 - c. Budget Consultation Board: The Leader indicated at the Budget Council meeting on 1st March that he would establish a forum for all group leaders to contribute to budget setting. This Advisory Panel is the proposed means of fulfilling that promise; and

- d. Shareholder Committee: Cumberland Council is a shareholder of various Local Authority Owned Companies. It is recommended that the s151 Officer is the Shareholder Representative but that decisions are taken under advice of a Committee comprising Executive Members. Unlike the other Executive Committees, it is not recommended that cross party members are appointed.
- 3.7 The terms of reference for the Executive Committees as set out in the Constitution are attached at Appendix A. It is recommended that delegated authority is given to the Monitoring Officer to draft the terms of reference for the Budget Consultation Board and Shareholder Committee, following consultation with the s151 Officer.

Establishment of Joint Executive Committee

- 3.8 It is proposed that a Joint Committee is established between Cumberland and Westmorland & Furness Councils. This Joint Committee will comprise four Executive members from each Council and will oversee the various hosted services, the waste service (which is long term hosted) and the other shared arrangements between the Councils.
- 3.9 As an Executive Committee, the Joint Committee will be subject to the requirements to publish Notice of Key Decisions via the Forward Plan, and Scrutiny will be carried out by a Joint Overview and Scrutiny Committee.
- 3.10 The terms of reference for the Joint Committee and the Joint Overview and Scrutiny Committee are attached as Appendix B. It is proposed that Cumberland will initially host the Joint Committee, which will mean that the Chair will be from Cumberland, while Westmorland & Furness will host the Joint Overview and Scrutiny Committee. It is currently intended that the roles will swap after 12 months. Members are asked for a view on this, noting also that there is no provision currently for a Chair's casting vote. In the absence of a casting vote it is proposed that any disagreements would be resolved by the two Leaders following consultation with the two Chief Executives. Ultimately if any disagreement cannot be resolved, either party can give notice to terminate the hosted services agreement (IAA) which is the subject of a separate report to members.

Officer Delegation Scheme – Officer functions

- 3.11 The Constitution includes a scheme of delegation to officers but the delegation of executive powers must be approved by the Shadow Executive.
- 3.12 The Constitution is drafted along principles which delegate to Chief Officers the responsibility to make all decisions that are not reserved to Members either by the Constitution or by law. This reduces the risk that the scheme becomes out of date or misses a relevant power, whilst providing clarity about matters which are reserved to Members. The Constitution sets out principles for Chief Officer decision making, including that Chief Officers will ensure that they consult and engage members as appropriate, that they comply with governance processes and procedures and keep Portfolio Holders updated on decision within their portfolios.
- 3.13 It is recommended that Officers should be able to take Key Decisions within their functional area, however, where Key Decisions are taken by Officers, this should be on the basis of a written report and in the presence of the report author, and an Officer Decision Notice will be prepared as soon as possible thereafter.

- 3.14 Decision making (under both executive and non-executive powers) may be further delegated to officers within the functional area of each Chief Officer, however, responsibility and accountability for the decision remains with the Chief Officer. Chief Officers are currently working on their local schemes of delegation.
- 3.15 The Leader has overall responsibility for executive functions of the Council as described in Part 2 Section 4 of the Constitution, "Responsibility for Executive Functions". Executive Procedure Rule 8 requires the Leader to develop a Scheme of Delegation for Executive Functions, which will be published alongside the Constitution and which will set out which Portfolio Holder, Executive Committee of Officer is responsible for the exercise of particular Executive Functions. The Leader's Scheme will be updated at each Annual Meeting of the Council.

4.0 Consultation

- 4.1 The Constitution was drafted under oversight of a cross party member Constitution Working Group, led by Cllr Lisa Brown. The Working Group has met regularly since September 2022 to provide a steer on the principles, framework and key provisions of the Constitution, and continues to meet to review minor and consequential changes. Going forward, the Group will keep the Constitution under review, reporting to the Standards and Governance Committee.

5.0 Alternative Options

- 5.1 No alternative options have been considered. As Cumberland Council will operate a Leader and Executive form of governance, the majority of decisions will fall to Executive and the Leader is specifically required to prepare a Leader's Scheme of delegation. Operating the framework set out in this report will ensure efficiency of decision making taken at the appropriate level and will support those decisions taken as a Shadow Executive with regard to hosted services.

6.0 Implications

Financial, Resources and Procurement

- 6.1 There are no direct finance implications arising from this report.

Human Resources

- 6.2 The report contains no HR implications.

Legal

6.3 Contained in the body of the report.

Health and Sustainability Impact Assessment

6.4 Have you completed a Health and Sustainability Impact Assessment? No

Equality and Diversity

6.6 Have you completed an Equality Impact Analysis? No

6.7 Under the general equality duty as set out in the Equality Act 2010, local authorities are required to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as advancing equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not. Having a Constitution in place will help to ensure that the Council does not discriminate unlawfully against any particular group of people.

7.0 Contributions to Cumberland Council Plan priorities

7.1 The Constitution sets out principles of decision making including efficiency and accountability and is designed to encourage and support community involvement in decision making so as to help ensure that decisions taken advance the priorities set out in the Cumberland Plan.

Contact Officers

Clare Liddle, Monitoring Officer

Appendices Attached to this Report

Appendix No.	Name of Appendix
A	Terms of Reference for Executive Advisory Panels
B	Terms of Reference for the Joint Committee
C	Officer Scheme of Delegation

Background Documents Available

Constitution of Cumberland Council

Appendix A: Terms of Reference for the Joint Committee extracted from the Constitution.

Shared (Hosted) Functions and Services

1.1 Joint Executive Committee

1.1.1 Scope

A Joint Executive Committee has been established under an Inter-Authority Agreement to oversee the management of those services which are provided on a Cumbria-wide basis on behalf of the Cumberland and Westmorland and Furness Authorities to ensure effective delivery of such services and to provide strategic direction

1.1.2 Joint Executive Committee - Composition

- (a) Each Authority shall appoint **4** Executive Councillors as its nominated members of the Joint Executive Committee. The Councillors appointed will have full voting rights.
- (b) Each Authority may nominate one or more substitute Members to attend any meeting in place of an appointed Member (who shall also be Executive Councillors) subject to notification being given to the Monitoring Officer via the relevant Democratic Services team before the start of the meeting. The Councillor appointed as a substitute shall have full voting rights.
- (c) Each member of the Joint Executive Committee shall comply with the Code of Conduct of their Authority when acting as a member of the Joint Executive Committee.
- (d) Each member of the Joint Executive Committee shall serve on the Joint Executive Committee for as long as they are appointed to the Joint Executive Committee by their Authority's Executive but a Councillor shall cease to be a member of the Joint Executive Committee if they cease to be a member of the Executive appointing them or if the relevant Authority removes them from the Joint Executive Committee.
- (e) Meetings of the Joint Executive Committee shall be carried out on a rotational basis in alternate Authority areas.
- (f) The Authority hosting the first meeting shall appoint one of its nominated members as Chair and that member shall remain Chair until the first meeting taking place after the elapse of **one year** from the time of their appointment unless they cease to be a member of the Joint Executive Committee. On the expiry of the first Chair's term of office as Chair, the Authority which did not appoint the first Chair shall appoint one of its nominated members as Chair for a period of one year from the time of their appointment. The same procedure shall be followed for the appointment of the Chair in subsequent years.
- (g) The Authority not appointing the Chair of the Joint Executive Committee in any year shall appoint one of its nominated members as Vice Chair.

- (h) Proposed key decisions of the Joint Executive Committee will be published on the Forward Plan for each Authority in accordance with their own Access to Information Rules.
- (i) Meetings will be governed by the Executive Procedure Rules and the Access to Information Rules for each Authority, including public speaking and questions, and where they might differ will be those of the Authority of the Chair unless otherwise agreed between the Monitoring Officers of the two Authorities as to which of the two sets of Rules will be applied.
- (j) The Joint Executive Committee shall normally meet once every two months (bi-monthly) unless otherwise determined by the Joint Executive Committee. Cancellation of meetings shall be agreed by the Joint Executive Committee or both Leaders.
- (k) The Authority providing the Chair shall also provide the host arrangements for Democratic Services and for the Monitoring Officer to act as proper officer to the Joint Executive Committee.
- (l) Additional meetings can be called by the relevant Monitoring Officer by providing at least five clear days' notice to members of the Joint Executive Committee, for the purposes of resolving urgent matters arising between the bi-monthly meetings. Additional meetings may be called if either Leader requests it.
- (m) The relevant Democratic Services team will send out the agenda, record minutes and arrange for the sign off of minutes in accordance with the procedure rules for the relevant Authority.
- (n) A meeting of the Joint Executive Committee will require a quorum of at least **2** members from each Authority.

1.1.3 **Joint Executive Committee - Terms of Reference**

Pursuant to Section 101 of the Local Government Act 1972, and to their powers under section 9EB LGA of the Local Government Act 2000 and Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012, the Authorities' Executives have charged the Joint Executive Committee with responsibility for the exercise of:

- (a) Developing and approving the Service Strategies for each of the shared Functions and Services.
- (b) Ensuring that Service Strategies and the resources and budgets required to deliver the Service Strategies are in place.
- (c) Agreeing the responsibilities of each Authority to deliver the Service Strategies, including any specific responsibilities of the Host Authority and that the responsibilities are documented within the Service Strategies.

- (d) Ensuring that the services are provided within the policy and budget set by the Authorities.
- (e) Ensuring that the arrangements ensure that each Authority's statutory responsibilities are met.
- (f) Overseeing the implementation of the Service Strategies, including reviewing the performance of the services against budget and indicators for service quality, performance and efficiency, and initiating additional action where appropriate.
- (g) Ensuring that clear operational policies are in place and that these are complied with.
- (h) Agreeing the basis for apportioning cost between the two Authorities and the amount to be apportioned.
- (i) Ensuring that effective risk management arrangements are in place, that the Functions and Services are subject to adequate and independent audit and that any audit recommendations are acted upon.
- (j) Approving business cases for proposed changes and overseeing the progress of subsequent work.
- (k) Ensuring that there are robust plans for the disaggregation of services as and when required and that there is a smooth transition to separate or new arrangements.
- (l) Resolving issues that are referred to the Joint Executive Committee by the Joint Officer Board or relevant Chief Officers of the Service.
- (m) Delegating functions of the Joint Executive Committee to officers of either Authority under s.101 Local Government Act 1972.
- (n) Agreeing arrangements to place staff employed by one of the authorities at the disposal of the other authority to carry out the functions of the Joint Executive Committee as described above under s.113 Local Government Act 1972.
- (o) Take decisions in relation to the commissioning and procurement of services either hosted or under a lead authority arrangement from a third party.
- (p) Responding to reports or recommendations from the Joint Overview and Scrutiny Committee or one or both of the Authorities.
- (q) Providing an Annual Report to each of the two Authorities on the performance, finances and proposed service improvements including any arrangements for disaggregation.

1.2 **Joint Overview and Scrutiny Committee**

A Joint Overview & Scrutiny Committee has been established under the above referenced Inter-Authority Agreement to provide oversight support and to scrutinise the work of the Joint Executive Committee for the oversight and management of the shared Functions and Services, including the development and delivery Service Strategies and, where applicable, the implementation of disaggregation plans.

1.2.1 Joint Overview and Scrutiny Committee - Composition

- (a) Each Authority shall appoint **6** Councillors (being non-executive councillors) on a politically proportionate basis as its nominated members of the Joint Overview and Scrutiny Committee. The Councillors appointed will have full voting rights. The Committee may co-opt non-voting members to assist it in its functions.
- (b) Each Authority may nominate one or more substitute Members to attend any meeting in place of an appointed Member (who shall also be non-executive members) subject to notification being given to the Monitoring Officer via the relevant Democratic Services before the start of the meeting. The Member appointed as a substitute shall have full voting rights.
- (c) Each member of the Joint Overview and Scrutiny Committee shall comply with the Code of Conduct of their Authority when acting as a member of the Joint Overview and Scrutiny Committee.
- (d) Each member of the Joint Overview and Scrutiny Committee shall serve on the Committee for as long as they are appointed to the Joint Overview and Scrutiny by the relevant Authority.
- (e) Meetings of the Joint Overview and Scrutiny Committee shall be carried out on a rotational basis in alternate Authority areas.
- (f) A meeting of the Joint Overview and Scrutiny will require a quorum of at least **2** members from each Authority.
- (g) The Chair shall be appointed by the Joint Overview and Scrutiny Committee at its first meeting of the municipal year and that Chair shall be a Councillor from the Authority other than the Authority providing the Chair of the Joint Executive Committee. The term of office and rotation of the Authority from which the Chair is appointed will rotate in synchronisation with the rotation and appointment of the Chair of the Joint Executive Committee.
- (h) The Vice-Chair shall be appointed by the Joint Overview and Scrutiny Committee from a nominated member of the other Authority from that which the Chair is appointed.
- (i) Meetings will be governed by the Access to Information Rules for each Authority, including public speaking and questions, and where they might differ will be those of the Authority of the Chair unless otherwise agreed between the Monitoring Officers of the two Authorities as to which of the two sets of Rules will be applied.
- (j) The Joint Overview and Scrutiny Committee shall normally meet once every two months (bi-monthly) unless otherwise determined by the Joint Overview and Scrutiny.

- (k) The Authority providing the Chair shall also provide the host arrangements for Democratic Services and for the Monitoring Officer to act as proper officer to the Joint Overview and Scrutiny. The relevant Democratic Services will send out the agenda, record minutes and arrange for the sign off of minutes in accordance with the procedure rules for the relevant Authority.
- (l) The scrutiny officer function shall be a shared function between the Authorities but which shall, where required, be led by the scrutiny officer of the Authority providing the Chair.
- (m) The **Call-In** mechanism will be affected by a request of any **3** members of the Committee of either Authority sent to the Monitoring Officer of either authority and containing details of the decision requested to be subject to call-in and the reasoning why. The process will then otherwise follow the call-in criteria, procedure and meeting requirements in respect of any subsequent meeting to be held of the Joint Overview and Scrutiny Committee in accordance with the Authorities' Overview and Scrutiny Procedure Rules. Where the Procedure Rules might differ, those applied will be the Overview and Scrutiny Procedure Rules of the Authority of the Chair unless otherwise agreed between the Monitoring Officers.

1.2.2 **Joint Overview and Scrutiny Committee - Terms of reference**

The Joint Overview and Scrutiny Committee is established under s101 and s 102 Local Government Act 1972 and to conduct the Authorities' functions under sections 9F and 9FA of the Local Government Act 2000 in respect of:

- (a) those functions exercised by the Joint Executive Committee
- (b) the shared Functions and Services for which the Joint Executive Committee is responsible
- (c) those decisions taken by the Joint Executive Committee, including those as delegated to an officer and those prospective decisions set out on the Forward Plan of decisions published in respect of the Joint Executive Committee
- (d) the 'call-in' function relating to these responsibilities, which shall be in the place of those call-in functions that might otherwise be exercised by the individual Authorities

1.2.3 **Joint Overview and Scrutiny Committee - Approach**

In fulfilling these functions the Joint Overview and Scrutiny Committee will seek to:

- (a) Develop a forward work programme of activities
- (b) Review or scrutinise decisions made, or other action taken by the Joint Executive Committee

- (c) Seek reassurance and consider whether the Functions and Services are operating in accordance with the Service Strategies, including the budgets and any implementation plans for disaggregation and continuing service provision
- (d) Identification of barriers to progress, best practice and possible improvements.
- (e) Holding the Joint Executive Committee to account by providing critical challenge to ensure that it provides the high-level strategic direction for the implementation of the Service Strategies.

1.3 **Cumbria Police, Fire and Crime Panel**

To be agreed with Police and Fire Commissioner

Appendix B: Terms of Reference of Executive Advisory Panels extracted from the Constitution

2 COMMITTEES OF THE EXECUTIVE

- 2.1 The Leader or the Executive may delegate any of its functions to a committee of the Executive. Committees of the Executive shall report to the Executive. If the Committee is to have decision-making powers then the Committee may only include Executive Councillors. The Leader or the Executive may also establish advisory committees, the membership of which need not be limited to Executive Councillors. The Leader or the Executive may change them, abolish them, or create further ones, at its own discretion.
- 2.2 Committees established by the Leader or the Executive shall be empowered to perform these functions with immediate effect unless the Leader or the Executive impose any express restriction when they are established. Unless stated otherwise, all decision-making committees will continue in operation until expressly abolished by the Leader or the Executive and all advisory or consultative liaison committees will continue in operation only until the first meeting of the Executive in the next civic year following their establishment when they must be expressly renewed or the cease to exist.
- 2.3 All functions that have been delegated to a committee established by the Leader or the Executive can still be taken by the Executive as the parent body (where the Executive has delegated that function) or by the Leader either personally or in accordance with the Leader's delegation of those functions to an individual Executive Councillor or an alternative committee of the Executive.
- 2.4 The establishment, abolition or cessation of committees and the amendment of their terms of reference will be reported to Council in due course for noting in the Council's Constitution.

Highways and Transport Board

- 2.5 The Council has established a Highways and Transport Board as a Committee of the Executive, formed as follows:

- 2.5.1 The Highways and Transport Board is a Committee of the Executive and shall be comprised of such of the Executive Members as the Leader or Executive shall determine
- 2.5.2 The Chair and Vice Chair of each Community Panel shall have the right to attend and speak at meetings. They will not have voting rights.
- 2.5.3 The Committee will meet at such times as shall be agreed by its members.
- 2.5.4 The Committee shall not be quorate unless three voting members are present.
- 2.5.5 One of the relevant Executive Councillors shall act as its Chair.
- 2.5.6 There shall be a right on the part of any member of the Committee to require the reference of any matter to the full Executive for determination.
- 2.5.7 Any local councillor for each ward directly affected by a matter to be considered by the Committee shall receive notification of that matter to enable them to make representations to the Committee in writing or in person (any failure to receive notification will not invalidate a decision).

Terms of Reference

- 2.5.8 The Highways and Transport Board is a Committee of the Executive and shall be responsible for the exercise of the following executive functions (unless or until the Leader or Executive shall determine otherwise):
 - (a) To agree and keep under review the implementation of the rolling 3 year strategic programme for highways and transport (revenue and capital) and the one year delivery plan.
 - (b) To recommend to Council any Highways or Transport Strategies and Policies within the Policy Framework for example the Local Transport Plan.
 - (c) To agree strategies and policies relating to Highways and Transport that are not in the Policy Framework.
 - (d) To agree responses to highways and transport consultation papers when referred by the Director or not reserved by Executive.
 - (e) To authorise the entering of agreements with public transport operators to provide financial support for services which are not available commercially.
 - (f) To consider and determine traffic management matters, other than those matters that are the responsibility of the Community Panels under the agreed Locality Scheme Budget, and those matters that require urgent determination or are of a temporary nature. The relevant local Councillor shall be notified of the matter.
 - (g) To consider information and updates provided by the Director on highways asset management strategy and delivery plan for promoting best practice and the implementation of asset management principles for all highway maintenance activities.

- (h) To receive and consider referrals from Community Panels on Highways and Transport matters.

Nuclear Issues Board

2.6 The Council has established a Nuclear Issues Board as a Committee of the Executive, formed as follows:

- 2.6.1 The Nuclear Issues Board is a Committee of the Executive and shall be comprised of such of the Executive Members as the Leader or Executive shall determine.
- 2.6.2 The Committee will meet at such times as shall be agreed by its members.
- 2.6.3 The Committee shall not be quorate unless three voting members are present.
- 2.6.4 One of the relevant Executive Councillors shall act as its Chair.
- 2.6.5 There shall be a right on the part of any member of the Committee to require the reference of any matter to the full Executive for determination.
- 2.6.6 Any local councillor for a ward directly affected by a matter to be considered by the Committee shall receive notification of that matter to enable them to make representations to the Committee in writing or in person (any failure to receive notification will not invalidate a decision).
- 2.6.7 The Committee is able to invite such other persons, representatives and stakeholders as it considers will assist and inform its work (who shall be able to speak but not vote).

Terms of Reference

2.6.8 The Nuclear Issues Board is a Committee of the Executive and shall be responsible for the exercise of the following executive functions (unless or until the Leader or Executive shall determine otherwise):

- (a) to advise the Executive on policy and issues relating to the nuclear industry in Cumberland including public and worker safety, environmental issues, socio-economic impact, the decommissioning of existing facilities and the possible development of new capacity.
- (b) In carrying out its duties the Committee will, as and when necessary, liaise with industry stakeholders, with other local authorities, regional and central government and other governmental agencies and make recommendations on research

Appendix C: Officer Scheme of Delegation extracted from the Constitution

1 INTRODUCTION TO THE OFFICER SCHEME OF DELEGATION

- 1.1 **“Officers”** is the term used to refer to the people employed, retained or appointed by the Council to advise and support Councillors and implement their decisions. The term “officers” in this Constitution includes all the people who operate in this capacity including contractors, consultants and agency staff.
- 1.2 The Council operates a “cascade” principle of delegation to ensure that decisions are taken at the most appropriate level closest to those who will be affected. This means that the vast majority of the Council’s decisions and actions will fall into the category of operational day to day decisions taken by its officers.
- 1.3 In order to ensure the smooth functioning of the Council and the efficient delivery of services, **Council**, the **Leader** and the **Executive** have delegated to officers all of the powers that they need to perform their roles. This scheme describes powers and functions reserved to particular statutory or proper officers as well as the more general authority as granted by Council and the Executive to be able to implement decisions and to undertake and operate the Council’s functions. Additional authority to act, or reservations to any authority granted, may be set out in a decision of the Council, a Committee or Executive or through a separate Leader’s or Committee’s Scheme of Delegation
- 1.4 Certain officers have specific legal duties and powers to ensure that the Council acts within the law, uses its resources wisely and exercises its powers properly. These officers are known as “Statutory” or “Proper” Officers and some have specific legal titles in addition to their job titles.
- 1.5 The way the Council structures its services and its officer arrangements changes from time to time to reflect changes in service delivery and best practice. The current arrangements include a Chief Executive/Head of Paid Service (as the most senior officer of the Council) supported by a number of Chief Officers.
- 1.6 See the current organisational structure of the Council, showing more detail about the roles and responsibilities of the Chief Officers and the officers supporting them to deliver all the Council’s services.

General Principles Relating to Officer Delegation

- 1.7 For the purposes of officer delegated powers, both within this part and any other part of the Constitution, the term “Chief Officer” shall include the following officers:
 - 1.7.1 The Chief Executive and Head of Paid Service
 - 1.7.2 The Monitoring Officer
 - 1.7.3 The Section 151 Officer (Chief Finance Officer)
 - 1.7.4 The Assistant Chief Executive – Strategy, Policy and Performance
 - 1.7.5 The Director of Adult Social Care and Housing

- 1.7.4 The Director of Business Transformation and Change
 - 1.7.5 The Director of Children and Family Wellbeing
 - 1.7.6 The Director of Place, Sustainable Growth and Transport
 - 1.7.7 The Director of Public Health and Communities
 - 1.7.8 The Director of Resources
- 1.8 This scheme gives the power for the Chief Officers to take decisions in relation to all the functions in their areas of responsibility except where:
- 1.8.1 a matter is prohibited by law from being delegated to an **Officer**; or
 - 1.8.2 a matter has been specifically excluded from delegation under this scheme by a decision of the **Council**, a Committee or Sub-Committee.
- 1.9 The cascade principle under which this scheme operates means that any officer given powers under this scheme can further delegate those powers to other officers through a Local Scheme of Delegation (which sets out all the standing delegations given to specific officers in defined areas of the Council's service areas). A full list of the Local Schemes of Delegation is available on the Council's website and you can look at any of the schemes in detail.
- 1.10 All Local Schemes of Delegation (and any changes to them) must be agreed by the relevant Chief Officer and the Monitoring Officer.
- 1.11 Where a function has been delegated to an **officer** (including where sub-delegated through the cascade principle), the person or body making the delegation may at any time take back responsibility for the function and may therefore exercise the function (make the decision) despite the delegation.
- 1.12 In some circumstances the **officer** to whom a power has been delegated may consider a matter to be of such importance or sensitivity that their delegated authority should not be exercised. In these circumstances he or she may refer the matter back to the delegator for determination.
- 1.13 Any power delegated or cascaded under this Scheme can be exercised by the relevant Chief Officer and in all cases by the Chief Executive personally, with the exception of those statutory functions delegated exclusively to the Council's **Chief Finance Officer** or the **Monitoring Officer**.
- 1.14 The powers of this Scheme are delegated to the officers referred to by title within this Scheme of Delegation. So the delegations apply to whoever holds that post title at any time – not to the individual person. The powers are automatically transferred to any successor officer, to whom the functions are allocated following any reorganisation of the Council's management arrangements, irrespective of a change in the title/name of the officer post. Nominated Deputies are able to exercise all functions of the person delegating the functions.
- 1.15 Delegations relate to all provisions for the time being in force under any applicable legislation and cover functions of the Council and all powers and duties incidental to that legislation.
- 1.16 Any delegation must be exercised:

- 1.16.1 In accordance with the **Budget and Policy Framework**, all the Council's Procedure Rules, the Pay Policy Statement approved annually and the Officer Code of Conduct;
 - 1.16.2 In accordance with the decision-making requirements set out in the Constitution, including requirements for decision-records and access to information;
 - 1.16.3 In accordance with any appropriate legislative, regulatory, consultation, equalities or procedural requirements that may be required; and
 - 1.16.4 Having identified and managed appropriate strategic and operational risks within the officer's area of responsibility
- 1.17 Officer decisions must be evidenced in writing using the agreed standard form, dated and signed by the officer exercising the delegated authority.
- 1.18 An **officer**, in exercising delegated powers may consult the relevant Committee Chair or executive Councillor if they consider it appropriate to do so and shall consult other appropriate officers for professional advice including legal, financial and technical officers and shall have regard to any views and advice received.
- 1.19 Whenever legislation is amended or replaced by new provisions, then the relevant delegated authority in this scheme applies to those new provisions. Whenever new legislation relevant or related to the functions exercised by the Chief Officer is introduced, that officer will have the delegated authority to exercise powers or otherwise take action under that legislation until such time as the **Council**, the executive, a Committee or the **Chief Executive** decides to whom to allocate responsibility for the new legislation.
- 1.20 Chief Officers may appoint another officer as their deputy and such deputy shall have all the powers of the Chief Officer as set out in this Constitution. A deputy may be appointed in relation to all the areas of service delegated to the Chief Officer under this Constitution or in relation to a particular area of service only. A deputy may be appointed for a specific period of time (for example to cover the absence of a Chief Officer) or without time limitation. The appointment of a deputy shall not prevent the exercise by the Chief Officer of any delegation set out in this Constitution.
- 1.21 If there is any dispute or lack of clarity as to which Chief Officer has power to make decisions on specific areas of service, the Chief Executive shall have power to determine where the delegation should be exercised.

2 GENERAL DELEGATIONS

- 2.1 The following delegations shall apply to all Chief Officers (and to any appointed deputies).

Urgent action

- 2.2 To act on behalf of the Council in cases of urgency in the discharge of any function of the Council for which their Directorate or Service has responsibility, other than those functions which by law can be discharged only by the Council, the executive, or a specific Committee. A decision will be urgent where any delay would seriously prejudice the legal or financial position of the Council or the interests of the Members of the Public of the Council's area. This delegation is subject to the conditions that any urgent action:

- 2.2.1 shall be reported to the next meeting of the appropriate Committee
- 2.2.2 shall take account of advice of the **Monitoring Officer** and the **Chief Finance Officer**
- 2.2.3 shall be exercised in consultation with the Leader (in relation to executive functions), the Chair (in relation to Council functions), or the Chair of the appropriate Committee.

Implementation of decisions

- 2.3 To take all necessary actions (including the letting of contracts, undertaking statutory processes and incurring expenditure) to implement decisions of Council, the executive, a Committee or Sub-Committee, or an Officer.

General operational

- 2.4 To have overall responsibility for the operational management of the relevant area of service, including approval of operational procedures and policies, and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to exercise the functions for which the service is responsible.
- 2.5 Any Chief Officer may be appointed by the Chief Executive to deputise in their absence and in the absence of the Assistant Chief Executive, and when so appointed is authorised to exercise all the powers of the Chief Executive (including those of the Head of Paid Service).

Consultation

- 2.6 To undertake and consider the outcome of statutory and non-statutory consultations on service provision.
- 2.7 To respond to Government Consultations and consultations from other bodies, in consultation with the Leader or the relevant Committee Chair.
- 2.8 To undertake all steps required to complete Government Statistical Returns.

Finance

- 2.9 To manage the finance of their departments to ensure value for money and the development of budget policy options with a detailed assessment of financial implications.
- 2.10 To enter into contracts and incur expenditure in relation to their functional area and in accordance with the approved budget, with the exception (unless otherwise provided in this Scheme of Delegation) of certificates under the Local Government Contracts Act 1997, the Council's Accounts and Contracts and Deeds where specific provisions are made in the Council's Contracts Procedure Rules.
- 2.11 To determine a Pricing Strategy that articulates the level of fees or charges payable in respect of any goods or services supplied, work undertaken or the loan or use of plant, equipment or machinery.
- 2.12 To submit applications for grant funding that align with the Council **Budget and Policy Framework**, in accordance with the approvals required under the Financial Procedure Rules.

Staffing

- 2.13 To deal with the full range of employment and staff management issues, below Chief Officer level including but not limited to appointments, terms and conditions (other than those negotiated nationally) training, discipline, dismissal, performance, progression, promotion, shifts and working hours, grievance, grading, emoluments, expenses, allowances, sick pay, leave, equal opportunities and health and safety in accordance with approved policies and the Employment Procedure Rules.
- 2.14 To enter into reciprocal arrangements for the authorisation and appointment of officers to facilitate cross-border co-operation in the discharge of delegated functions with any other public sector organisation.

Land and assets

- 2.15 To manage vehicles, plant, equipment, machinery, stock, stores, supplies, materials, furniture, appliances, uniforms and (in consultation with the Director of Resources) land and premises necessary for the provision of services.
- 2.16 To administer the supply of goods and services to other public authorities and bodies under the Local Authorities (Goods and Services) Act 1970 and all other enabling legislation.
- 2.17 To make application for planning permission and any other necessary applications for other consents required for the development of land.

Legal authorisation and enforcement

- 2.18 To act as “duly authorised officers” (for the purposes of all relevant legislation) and to enforce/administer the requirements of all relevant regulatory legislation which shall (for the avoidance of doubt) include (but not be limited to) taking the following action (and all actions reasonably necessary, expedient or ancillary in order to facilitate or enable the same):
 - 2.18.1 Applying for warrants, carrying out investigations, inspections or surveys, entering land and premises, taking samples and seizing property
 - 2.18.2 issuing (or declining to issue) licences, certificates or certified copies of documents, approvals, permissions, consents, notices, orders, directions or requisitions for information
- 2.19 Only with the approval of the **Monitoring Officer**, to authorise the institution, defence, settlement of or participation in civil and criminal proceedings and quasi-proceedings (which for the avoidance of doubt shall include but not be limited to all court hearings, tribunal, inquiry and appeal processes), administer cautions and/or take any other action considered necessary to protect the interests of the Council. Only the Monitoring Officer, however, may seek, instruct or authorise the obtaining of any legal advice or representation by external solicitors, counsel or other legal bodies.
- 2.20 Where authorised in the Constitution or applicable policy, to exercise the role of authorising officer and designated person under the Regulation of Investigatory Powers Act 2000. (The **Monitoring Officer** is excluded from this provision as they have the formal ‘reviewer’ role.)

Safeguarding children and vulnerable adults

- 2.21 To ensure that arrangements are in place to discharge the responsibilities of the Council within their functional responsibilities in respect of the need to safeguard and promote the welfare of children and of vulnerable adults.

Emergencies and Continuity

- 2.22 If the Council needs to act urgently in any matter including, without limitation, complying with the Emergency Response Plan and other council response plans or taking any action under new legislation of powers, and the Chief Executive is either unwell, unobtainable or where there is no Chief Executive in post, then a Chief Officer may act in the place of the Chief Executive and may delegate responsibility to another nominated Officer where it is considered appropriate.

3 DELEGATIONS TO CHIEF EXECUTIVE AND CHIEF OFFICERS

Statutory Chief Officers

Chief Executive/Head of Paid Service

- 3.1 The Chief Executive is the most senior officer in the Council. It is their role to support the Councillors and to provide leadership for the Council.
- 3.2 The Chief Executive is empowered to operate all the services of the Council and, except where powers, duties and functions are reserved, to exercise all powers, duties and functions of the Council, including those delegated to other officers with the exception of those statutory functions delegated exclusively to the Council's Chief Finance Officer or the Monitoring Officer.
- 3.3 Every Council must, by law, appoint one of its officers as the Head of Paid Service. The Chief Executive is also the Council's Head of Paid Service. Their responsibility in this role is to make proposals to the Council about the manner in which the discharge of the Council's functions is co-ordinated and the numbers, grades and organisation of staff required and the proper management of those staff. The Chief Executive has power to exercise any function of the Head of Paid Service contained in any legislation and in any other Part of this Constitution.
- 3.4 The Chief Executive may appoint one or more deputies, each of whom has power to exercise all the powers and duties of the Chief Executive during their absence, incapacity or conflict from acting or during vacancy of the role.
- 3.5 The Chief Executive is given delegated power to undertake the following roles and responsibilities and to take the following decisions subject to the terms of this Constitution:
 - 3.5.1 To be the Council's principal officer representative and to promote its good image and reputation
 - 3.5.2 To lead and direct the strategic management of the Council
 - 3.5.3 To appoint other officers as Proper Officers for the purposes of any specific Council service area or function and to maintain an up to date Proper Officer Register showing who is appointed to act as the Proper Officer for all Council service areas and functions
 - 3.5.4 Unless another officer is appointed as Proper Officer, to act as Proper Officer for the Council for the purposes of all Council service areas and functions
 - 3.5.5 To discharge emergency planning and civil protection functions (together with the Director of Public Health and Communities in the case of emergency presenting a risk to public health);

- 3.5.6 To take such steps (including the incurring of expenditure where necessary) as may be required in the event of any national or local emergency requiring immediate action by the Council
- 3.5.7 To undertake the communications, marketing and media functions of the Council with regard to policy and strategic direction.
- 3.5.8 To exercise any function of the Council which is not specified in the Constitution or in law as a function that must be exercised by Councillors, except the statutory functions of the Monitoring Officer.
- 3.5.9 To take any decision where any delay incurred in taking the decision would seriously prejudice the Council's or the public interest to the extent that it is appropriate to exercise emergency powers. This may include waiving the Council's Contracts Procedure Rules to the extent that this complies with domestic laws. In exercising this power, the Chief Executive must consult with the Leader of the Council, the Monitoring Officer and the Chief Finance Officer or in their absence, their nominated deputies, unless the delay caused by doing so would itself be likely to result in danger to life or property. The Chief Executive will report any such decision to the next meeting of Council;
- 3.5.10 To allocate or re-allocate responsibility for functions in the Scheme of Delegation to Officers provided that any changes applicable for a period of more than six months must be reported to Council as a change to the Scheme of Delegation.

Monitoring Officer

- 3.6 The Monitoring Officer is appointed in accordance with Section 5 of the Local Government and Housing Act 1989 and has all the powers and duties of the Monitoring Officer and is responsible for supporting and advising the Council in relation to:
 - 3.6.1 the lawfulness and fairness of the decision making of the Council
 - 3.6.2 the Council's compliance with its legal responsibilities and requirements, and
 - 3.6.3 matters relating to the conduct of Councillors (including Parish Councillors).
- 3.7 The Monitoring Officer will provide advice to ensure that decisions are taken on proper authority, by due process, and in accordance with the Budget and Policy Framework.
- 3.8 The Monitoring Officer shall, where necessary, and in consultation with the Head of Paid Service and the Chief Finance Officer, report any proposal, decision or omission considered to be unlawful or that amounts to

maladministration to the Council as appropriate in accordance with Section 5 of the Local Government and Housing Act 1989.

- 3.9 The Monitoring Officer may appoint one or more deputy Monitoring Officers, each of whom has power to exercise all the powers and duties of the Monitoring Officer during their absence, incapacity or conflict from acting or during vacancy of the role.
- 3.10 The Monitoring Officer has power to exercise any function of the Monitoring Officer contained in any other Part of this Constitution.
- 3.11 The Monitoring Officer shall have the following delegated powers and responsibilities:
 - 3.11.1 To authorise the settlement of actual or potential claims, borehole claims or Local Government and Social Care Ombudsman cases across all functions of the Council.
 - 3.11.2 To prosecute, defend, settle, make application, serve any notice or appear on behalf of the Council in any Court, Tribunal or hearing on any criminal, civil or other matter (including appeals).
 - 3.11.3 To institute legal proceedings for any offences within the Council's area.
 - 3.11.4 To lodge objections to any proposal affecting the Council's interests.
 - 3.11.5 To determine applications for the display of the crest or logo of the Council.
 - 3.11.6 To approve the Council's response to any investigation carried out by the Local Government and Social Care Ombudsman.
 - 3.11.7 To approve the Council's response to any request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2003.
 - 3.11.8 To take all action including the completion of agreements, the service of notices, giving of directions, obtaining or issuing orders, authorising the execution of powers of entry, and the institution and defence of legal proceedings necessary or desirable to protect and advance the interests of or discharge the roles, functions and responsibilities of the Authority.
 - 3.11.9 To make discretionary payments under Land Compensation Act 1973 on the recommendation of the District Valuer.
 - 3.11.10 In accordance with the Council's approved policy, to monitor the integrity of the operation of the Regulation of Investigatory Powers Act 2000 by:

- (a) Ensuring compliance with all relevant legislation and with the Codes of Practice.
 - (b) Engagement with the Inspectors from the Investigatory Powers Commissioner's Office when they conduct their inspections, and, where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.
 - (c) Monitoring authorisations and conducting a quarterly review of applications, authorisations and refusals, and reviewing renewals and cancellations.
- 3.11.11 To make Orders for the Temporary Closure of Highways and Regulation of Traffic.
- 3.11.12 To attest the affixing of the Council's seal to all documents approved for sealing.
- 3.11.13 To authorise appropriate Officers to administer formal cautions in respect of criminal offences.
- 3.11.14 To determine whether a particular claim for payment under the Councillors Allowances Scheme is appropriate.
- 3.11.15 To authorise appropriately qualified employees or persons acting on behalf of the Council to appear in, and conduct legal proceedings in, any Court or Tribunal on behalf of the Authority.
- 3.11.16 To prove debts owed to the Authority in bankruptcy and liquidation proceedings.
- 3.10.17 To deal with the initial stages of the disciplinary procedure for the statutory officers (Chief Executive and Chief Finance Officer), in conjunction with the appointed Chair of the Staffing Committee;
- 3.10.18 To deal with the initial stages of allegations under the grievance procedure against the Chief Executive or Chief Finance Officer;
- 3.10.19 To deal with the initial stages of allegations under the Council's bullying and harassment procedure against the Chief Executive or Chief Finance Officer.
- 3.11.20 To make such changes to the Council's Constitution as they deem to be necessary and which are in the Council's interests and which do not materially change any principles previously approved by the Council including, but not limited to, changes:
- (a) amounting to routine revisions
 - (b) to provide appropriate clarity

- (c) to correct typographical and other drafting errors
- (d) to reflect new legislation
- (e) to correct inconsistencies in drafting
- (f) to reflect new officer structures and job titles, properly approved through Council processes.

3.11.21 To grant dispensations to Councillors or Coopted members under Section 33 of the Localism Act 2011, to allow them, where they have a disclosable pecuniary interest in a matter to be considered at a meeting of the Council, or any of its committees or sub-committees, or the Cabinet or any committee or sub-committee of the Cabinet, to participate in any discussion of the matter in which they have the disclosable pecuniary interest at the meeting or to participate in any vote, or further vote, taken on the matter at the meeting; in any of the following circumstances:

- (a) if it is considered that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- (b) if it is considered that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- (c) if it is considered that granting the dispensation is in the interests of persons living in the authority's area; or
- (d) if it is considered that it is otherwise appropriate to grant a dispensation.

3.11.22 The Monitoring Officer has the full range of powers necessary to discharge the Council's functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by Councillors, implementing decisions and undertaking efficient management of the services, contracts and staff for which they are responsible in the following functional areas:

- (a) Legal and Democratic Services;
- (b) Member Support;
- (c) Election Services;
- (d) Coroners Services;

- (e) Internal Audit; and
- (f) any other services allocated or re-allocated to the Monitoring Officer by the Chief Executive.

Chief Finance Officer (s.151 Officer)

- 3.12 The Chief Finance Officer is appointed in accordance with section 151 of the Local Government Act 1972 as:
- 3.12.1 The financial adviser to the Council, Committees and Officers
 - 3.12.2 The Authority's 'responsible financial officer', and is
 - 3.12.3 Responsible for the proper administration of the Council's financial affairs as specified in, and undertakes the duties required by, section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, the Local Government and Housing Act 1989, the Local Government Act 2003, and all other relevant legislation.
- 3.13 "Proper Administration" is not defined but shall also include responsibilities for compliance with the statutory requirements for accounting and internal audit.
- 3.14 The Chief Finance Officer may appoint one or more sufficiently qualified deputies, each of whom has power to exercise all the powers and duties of the section 151 Officer during their absence, incapacity or conflict from acting or during vacancy of the role.
- 3.15 The Chief Finance Officer shall have the following delegated powers and responsibilities:
- 3.15.1 To carry out the functions and responsibilities which are detailed in the Finance Procedure Rules;
 - 3.15.2 To strengthen the strategic and operational financial leadership of the Council through medium term financial planning and budgetary control overseeing the Council's annual budget;
 - 3.15.3 To secure effective treasury management, including taking all action necessary in relation to all debts, payment of accounts, loans (including guarantees and indemnities), grants, advances, investments, financing and banking generally;
 - 3.15.4 To take all action necessary to ensure the safeguarding of assets by maintaining and administering appropriate insurance and approving requests to post-pone legal charges;

- 3.15.5 To lead the revenue and benefits service;
- 3.15.6 To take all action necessary to facilitate debt recovery and enforcement action including instituting prosecutions, making applications to courts and tribunals and authorising officer to appear on behalf of the Council;
- 3.15.7 To take all necessary action in respect of the Council's role in relation to the administration and operation of the Pension Fund and to represent the needs of Cumberland to Westmorland and Furness as the "Pension Administering Authority";
- 3.15.8 To adopt the Council's annual Council Tax Base
- 3.15.9 To make recommendations to Council on Council Tax requirements, on the Council tax base and to administer and manage generally all matters relating to Council Tax, Non Domestic Rates and General Rates including the awarding of discounts, relief, and exemptions and the levying, collection, recovery, and disbursement of all sums due to the Council in respect of the same in accordance with all governing Regulations;
- 3.15.10 To act as the Council's shareholder representative in respect of Cumbria Holdings.
- 3.15.11 To have the full range of powers necessary to discharge the Council's functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by elected members implementing decisions and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:
 - (a) Procurement;
 - (b) Insurance;
 - (c) Pensions;
 - (d) Accounting and Financial Planning;
 - (e) Revenues and Benefits; and
 - (f) Financial services (including treasury management and banking);
 - (g) performance;
 - (h) the financing of the Capital Programme;
 - (i) Any other services allocated to the Chief Finance Officer by the Chief Executive

Director of Public Health and Communities

- 3.16 The Director of Public Health and Communities holds the statutory role for the Council as the person appointed as the Director of Public Health (required by section 73A of the National Health Service Act 2006).
- 3.17 The Director of Public Health and Communities has the full range of powers necessary to discharge the Council's functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by elected members and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:
- 3.17.1 Public health intelligence;
 - 3.17.2 Health improvement and the Wider Determinants of Health;
 - 3.17.3 Public health protection;
 - 3.17.4 Public Health commissioning, contract management and quality assurance;
 - 3.17.5 Regulatory Services including Environmental Health and Protection, Trading Standards, Licensing and Private Sector Housing;
 - 3.17.6 The statutory functions of the Director of Public Health (together with the Chief Executive in the case of planning for and responding to emergencies that present a risk to public health); and
 - 3.17.7 Any other services allocated or reallocated to the Director of Public Health by the Chief Executive.

Director of Adult Social Care and Housing

- 3.18 The Director of Adult Social Care and Housing holds the statutory role for the Council of the Director of Adult Social Services (required by Section 6 of the Local Authority Social Services Act 1970).
- 3.19 The Director of Adult Social Care and Housing has the full range of powers necessary to discharge the Council's functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by elected members, implementing decisions and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:
- 3.19.1 All adults services including but not limited to:

- (a) Adult Social Care Services – Community Teams;
- (b) Adult Social Care – Hospital Teams;
- (c) Mental Health and Learning Disability Services;
- (d) Adult Safeguarding;
- (e) Adult Social Care commissioning, contract management and quality assurance;
- (f) Adult Social Care Business Support and Finance;
- (g) The provision of residential and day services to children and adults including those provided by Cumbria Care (“Provider Services”);
- (h) Integration of health and social care services; and
- (i) Any other services allocated to the Director by the Chief Executive

Director of Children and Family Wellbeing

3.20 The Director of Children and Family Wellbeing holds the statutory role for the Council of the Director of Children's Services (required by Section 18 of the Children Act 2004) and is the designated person for the purposes of Section 22 of the Children Act 1989.

3.21 The Director of Children and Family Wellbeing has the full range of powers necessary to discharge the Council's functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by Councillors, implementing decisions, and undertaking efficient management of the services, contracts and staff for which they are responsible in the following functional areas:

3.21.1 Children and young people's services including Looked After Children;

3.21.2 Education and skills;

3.21.3 SEND;

3.21.4 the provision of residential and day services to children; and

3.21.5 any other services allocated to the Director by the Chief Executive.

3.22 The Director of Children and Family Wellbeing has specific powers to:

- 3.22.1 in consultation with the relevant Executive Councillor whether to undertake a consultation on a school organisation proposal where the Council is the proposer, provided that, decisions relating to school organisation must be referred to Cabinet for determination; and
- 3.22.2 nominate local authority governors to maintained schools in consultation with the relevant local Councillor or the Chair and Vice Chair of the relevant Community Panel.

Non Statutory Chief Officers

Assistant Chief Executive

3.23 The Assistant Chief Executive has the full range of powers necessary to discharge the Council's functions, including taking decisions which are **not** specified in the Constitution or in law as having to be taken by elected members and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:

- 3.23.1 Strategic and Corporate Policy;
- 3.23.2 Performance and data/ intelligence;
- 3.23.3 Communications; and
- 3.23.4 PR and Media Relations.

Director of Business Transformation and Change

3.24 The Director of Business Transformation and Change has the full range of powers necessary to discharge the Council's functions, including taking decisions which are **not** specified in the Constitution or in law as having to be taken by elected members and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:

- 3.24.1 Business Partnering;
- 3.24.2 Commissioning and Procurement;
- 3.24.3 Human Relations and Organisational Development;
- 3.24.4 ICT;

- 3.24.5 Programme Management Office; and
- 3.24.6 Any other services allocated to the Director by the Chief Executive

Director of Place Sustainable Growth and Transport

3.25 The Director of Place Sustainable Growth and Transport has the full range of powers necessary to discharge the Council's functions, including taking decisions which are **not** specified in the Constitution or in law as having to be taken by Councillors, implementing decisions, and undertaking efficient management of the services, contracts and staff for which they are responsible in the following functional areas:

- 3.25.1 Inward Investment and Growth;
- 3.25.2 Climate Change, Net Zero and Biodiversity and the Natural Environment;
- 3.25.3 Sustainable Growth;
- 3.25.4 Planning and Building Control;
- 3.25.5 Transport and Highways;
- 3.25.6 Community Infrastructure;
- 3.25.7 Waste and Street Scene; and
- 3.25.8 Any other services allocated or reallocated to the Director of Place, Sustainable Growth and Transport by the Chief Executive

Director of Resources

3.26 The Director of Resources has the full range of powers necessary to discharge the Council's functions, including taking decisions which are **not** specified in the Constitution or in law as having to be taken by elected members or Statutory Chief Officers and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:

- 1.1.1. Financial Services including responsibility for management of the Chief Financial Officer (S151 Officer);
- 1.1.2. Legal and Democratic services, Elections, Member Support, Coroner's Services, Registrars and Internal audit and risk management including responsibility for management of the Monitoring Officer.

- 1.1.3. Assets and Fleet including management of housing and school assets;
- 1.1.4. All aspects of Customer Service Delivery including community hubs and prevention, front door and service integration;
- 1.1.5. Corporate Complaints and Business Administration; and
- 1.1.6. Any other services allocated or reallocated to the Director of Resources by the Chief Executive

Cumberland Shadow Executive

27 March 2023

Charter Trustees for the City of Carlisle

Report from:	Cllr Barbara Cannon, Portfolio Holder Financial Planning and Assets
Report Author:	Monitoring Officer
Wards:	Carlisle Urban Wards
Key Decision:	No

1.0 Purpose/Summary of report

- 1.1. The Cumbria (Structural Changes) Order 2022 and draft Supplementary Provisions Order set out the main provisions governing the administrative reorganisation of the seven sovereign Cumbrian Councils and, in particular, establish Charter Trustees for the City of Carlisle. This report seeks delegated authority to agree occupation and use of Cumberland Council buildings and resources by the Charter Trustees.

2.0 Recommendations

2.1 It is recommended that Shadow Executive:-

- (a) Delegates authority to the Monitoring Officer to agree terms for the use of and occupation of part of the Civic Centre by the Charter Trustees; and
- (b) Delegates authority to the s151 officer to agree and pay the funding requested by the Charter Trustees for the first year.

- 2.2 Reason for recommendations: The Charter Trustees for the City of Carlisle will be established from 1st April and shall be entitled to accommodation and to funding.

3.0 Background

- 3.1 Carlisle has held City status from time immemorial and, like other towns and boroughs in the Cumberland District, has a ceremonial mayor whom residents view as a figurehead for community engagement, fund raising and civic pride. The City also holds ancient market and fishing charters, armorial bearings and historic and ceremonial property and regalia.

- 3.2 As the urban area of the city, which largely aligns to the ancient city area, is unparished, Local Government Reorganisation presented a clear risk that the mayoralty, the armorial bearings and the status of being a City would be lost. This has happened elsewhere, including in Rochester in Kent when, following the merger of Rochester on Medway Council and Gillingham District Council into Medway Council in 1998, it was removed from the list of cities maintained by the Lord Chancellor.
- 3.3 Discussions with the Department for Levelling Up, Homes and Communities took place from July 2021 which revealed two options to maintain the historic traditions and the City status – the establishment of Charter Trustees and/ or a Community Governance Review to create a Parish Council for Carlisle.

Charter Trustees

- 3.4 Charter trustees are established under the Local Government Act 1972 and are given effect to by further legislation (the Cumbria (Structural Changes) Order 2022 and draft Supplementary Provisions Order laid before Parliament) in local government reorganisation for towns and cities which have a Royal Charter but which will otherwise lose their status as local government entities following local government restructures.
- 3.5 Charter Trustees are a representative body consisting of the Cumberland Council Members who are elected to represent the area where the ceremonial rights and privileges are to be preserved. Charter Trustees would therefore comprise the councillors elected and representing those unparished wards in Carlisle which are covered by the Trustee area.
- 3.6 In order to preserve the Mayoralty and its Civic and Ceremonial Rights, Privileges, Property and Insignia, Carlisle City Council resolved to support the establishment of Charter Trustees and DLUHC subsequently included the necessary provisions in the Supplementary Provisions Order. This action will also preserve the City Status of Carlisle.
- 3.7 The functions of a Charter Trustee are limited to preserving historic property, privileges, rights and traditions presently enjoyed by a local authority which is to be abolished. They are not permitted to administer mayoral charities and cannot fulfil a twinning role but may award honorary freedoms and alderman status.
- 3.8 “Historic property” means any charter, insignia, plate or other property which is of an historic and ceremonial nature, held by a relevant council, other than land and buildings or any property held for the purposes of any statutory function. A full inventory is set out in the s16 Agreement which is the subject of a separate report to this meeting. It should be noted that ‘preserving’ historic property includes arranging insurance.
- 3.9 Charter Trustees are entitled to claim allowances as if they were members of a parish council and are bound by the Cumberland Council member code of conduct.
- 3.10 Charter Trustees cannot be wound up at a later stage. They only cease if their privileges and rights are transferred to a parish or town council which could follow a Community Governance Review if Cumberland Council resolves to begin such a process.
- 3.11 The Charter Trustees are required to hold an Annual Meeting within six weeks of Vesting Day.

Right to Accommodation and funding

- 3.12 By Regulation 11 of the Charter Trustees Regulations 2009, the relevant council (which here is Cumberland Council) is required to provide accommodation for the proper discharge of the functions of any Charter Trustees on terms which may be determined by agreement between them.
- 3.13 The Charter Trustees will be established from 1st April 2023 and will need to use Cumberland Council premises from that date. The Civic Centre in Carlisle is likely to be the most appropriate location. At this stage it is not clear the extent of the building which will be needed.
- 3.14 The Charter Trustees may also request the council to pay to them such amount as they consider necessary for the discharge of their functions in the first year, in accordance with limits laid down in the Local Government (Structural Changes) (Further Financial Provisions and Amendment) Regulations 2009.
- 3.15 This request for funding may include the cost of appointing such officers as the Charter Trustees think necessary for the proper discharge of their functions.
- 3.16 Once a request for funding is received, the council shall pay that amount to them within 28 days.
- 3.17 For the second year and going forward until a parish or town council is established for the area, the Charter Trustees will be required to calculate budget requirements and precepts in the same way as a principal council.
- 3.18 Delegated authority is, therefore, sought for the Director of Resources as follows:
- a. To agree terms for the use of and occupation of part of the Civic Centre by the Charter Trustees; and
 - b. To agree and pay the funding requested by the Charter Trustees for the first year.

4.0 Consultation

- 4.1 No consultation is necessary as the requirements set out in this Report are laid down by statute.

5.0 Alternative Options

- 5.1 No alternative options have been considered.

6.0 Implications

Financial, Resources and Procurement

- 6.1 There is existing budget provision of £xx,xxx to cover the civic functions and activities of the Charter Trustees, which is considered sufficient to cover the expected activity. Any request for funding over this approved budget would be a pressure unless equivalent savings can be identified from within the service area.

Human Resources

6.2 The report raises no HR issues.

Legal

6.3 Contained in the body of the report.

Health and Sustainability Impact Assessment

6.4 Have you completed a Health and Sustainability Impact Assessment? No

Equality and Diversity

6.6 Have you completed an Equality Impact Analysis? No

Contact Officers

Clare Liddle, Monitoring Officer

Appendices Attached to this Report

None

Background Documents Available

Charter Trustees Regulations 2009

Cumbria (Structural Changes) Order 2022

Local Government (Structural Changes) (Supplementary Provision and Amendment) Order 2023 (draft)

Cumberland Shadow Executive

28th March 2023

Section 16 Local Government Public Involvement in Health Act – Property, Rights & Liabilities

Report from:	Cllr Lisa Brown, Deputy Leader (Statutory)
Report Author:	Monitoring Officer
Wards:	All
Key Decision:	Yes

1.0 Purpose/Summary of report

- 1.1 The purpose of the report is to set out the terms of the agreement which has been reached on behalf of Cumberland and Westmorland and Furness Councils in relation to the disaggregation of property, rights and liabilities of the predecessor councils and to which successor Authority such property, rights and liabilities will vest on the 1st April 2023.
- 1.2 The agreement draws together the principles and agreements reached on aggregation and disaggregation of the sovereign councils in the previous eighteen months into one succinct document, which dovetails with the Inter-Authority Agreement, Waste IAA and Property Transfer Scheme (Fire) between the new Authorities.

2.0 Recommendation

It is recommended that

- 2.1 Members note the contents of this report and the terms proposed in the Section 16 Agreement.
- 2.2 The Monitoring Officer be delegated authority to agree the final terms of the Section 16 Agreement following consultation with the Deputy Leader (Statutory), Chief Executive and s151 Officer.
- 2.3 That authority is given to the Monitoring Officer to sign the Section 16 Agreement.
- 2.4 That authority is given to the S.151 Officer, following consultation with the Deputy Leader (Statutory) to agree and settle any matter of

any value which falls to be agreed under the terms of the Section 16 Agreement as to proportionality of rights and liabilities between the councils.

2 Background and Proposals

2.1 Legal Basis

- 2.1.1 The agreement is entered into pursuant to Section 16 of the Local Government and Public Involvement Act 2007 ('Section 16') and Local Government (Structural Changes) (Transfer of Functions, Property, Rights and Liabilities) Regulations 2008 ('the Transfer Regulations').
- 2.1.2 Section 16 gives public bodies the power to make agreements which affect any property, income, rights, liabilities and expenses of the parties to the agreement and in relation to any financial relations between the parties to the agreement. This is a discretionary power.
- 2.1.3 Regulation 7 of the Transfer Regulations provides that where there is the establishment of a single tier of local government for an area which consists of the entirety of the areas of both or all of the predecessor councils, all property, rights and liabilities of the predecessor councils shall on the reorganisation date vest in, and transfer to, the successor council.
- 2.1.4 Regulation 12 of the Transfer Regulations provides that where there is more than one successor in relation to a predecessor council, property, rights and liabilities of that predecessor council, which are identified in an agreement as for transfer on the reorganisation date to only one of the successor council shall, on that date, vest in and transfer to that council.
- 2.1.5 The Transfer Regulations also confirm the functions of the predecessor councils shall on the reorganisation date become functions of both or, as the case may be, all of the successor councils, and exercisable by each of them independently of the other or others (unless that function is only exercisable in a specific area in which case it will be exercising by the council into which that area falls).
- 2.1.6 The Local Government (Structural Changes) (Transitional arrangements) (No.2) Regulations 2008 ('the Transitional Regulations') are also relevant in that they provide for continuity of the predecessor councils into the relevant successor council on an area basis.

2.2 Property, rights and liabilities

- 2.2.1 The terms 'property', 'rights' and 'liabilities' are not specifically defined but are understood to include; land and buildings,

reserves, trust property, tangible assets such as fleet, ICT equipment, office equipment, shares in companies, investments, collections, contractual arrangements including grant agreements and borrowing commitments, claims against predecessor councils and records.

- 2.2.2 The Section 16 Agreement has set out classes of matters within each broader heading and either provided the principle for which is to be applied for disaggregation of that class or will append a physical list.

2.3 District and Borough Councils

- 2.3.1 As the District and Borough Councils of Cumbria have a single successor council for the entirety of their area, all functions, property, rights and liabilities of the district and borough councils will transfer and vest in their respective council on vesting day.
- 2.3.2 Allerdale Borough Council, Carlisle City Council and Copeland Borough Council's functions, reserves, property, rights and liabilities will therefore transfer and vest in Cumberland Council on 1st April 2023.
- 2.3.3 The exception to this is the historical property of Carlisle City Council will transfer and vest in the Charter Trustees of the City of Carlisle on the 1st April 2023. For the avoidance of doubt those assets which form that historical property have been set out in the Section 16 Agreement.

2.3 Cumbria County Council

- 2.3.4 Cumbria County Council's ('the County') successor councils are both Cumberland Council and Westmorland and Furness Council.
- 2.3.5 Since the Structural Changes Order was made work has been undertaken to understand how the functions, property, rights and liabilities including employees would be disaggregated across the two new single tier councils.
- 2.3.6 The Section 16 Agreement is intended to draw together and set out those established principles into one agreement for the purposes of certainty for residents, employees and the organisation itself as to how matters have been disaggregated with the aim of providing a clear line for the transfer and vesting of the class of property, rights and liabilities identified in the agreement.
- 2.3.7 Other than where the Section 16 Agreement specifically vests an asset, liability, right or property wholly in one council or jointly and severally in both councils, the County's assets, rights and liabilities will be disaggregated and vest in each new authority in

the proportion set out in the Financial Principles of Disaggregation (which can be found in the Agreement).

2.4 Caretaker Council

- 2.4.1 In the event any property, right or liability does not have a clear successor council, and has not been identified in the agreement as transferring and vesting to a successor council, the Transfer Regulations refer to the appointment of a caretaker council for the purposes of ownership, until such time as the parties can agree which council is to have ultimate ownership or if the ownership is to be shared.
- 2.4.2 The Secretary of State can elect the caretaker council, however it would be prudent to have a default council referred to in the agreement for this purpose. This provides certainty and consistency. As Westmorland and Furness Council will hold the County's reserves on trust for both council's until such time as the final accounts for 2022/23 have been prepared, it is recommended that, other than where there is a hosted service, any matters which have not been specifically referred to in the agreement, which do not have a clear successor authority or are not part of a Hosted Service, shall transfer and vest in the caretaker council on trust for both councils until such time as agreement has been reached as to the ultimate owner. Whilst the matter is being held in this way, any costs, liability, income etc shall be shared on a proportionate basis of 55/45 (as to Cumberland and Westmorland respectively) and Cumberland will indemnify Westmorland for their proportion of any holding costs (if any) until such time as agreement is reached.
- 2.4.3 For hosted services, where any property, right or liability is found not referred to in the Section 16 Agreement, it transfers and vests in the Hosting Authority on the terms of the Inter-Authority Agreement.
- 2.4.4 If after a period of time the successor councils still cannot agree which or if both councils should have ownership of the property, right or liability then the matter would be referred to arbitration for determination.

2.5 Liability in Contract, Tort, Statue or other legal claim by or against Cumbria County Council

- 2.5.1 A claim against a predecessor council is a liability, a claim being made a predecessor council is a right.
- 2.5.2 Any proceedings already issued by or against the County will continue by virtue of the Transitional Regulations into the new successor councils, to the successor council of the relevant area of

which the proceedings relate. In most cases this is simple to identify using the geography of where the incidence took place, the address of residents or the location of a school for example.

- 2.5.3 However, in some instances, it is not possible to disaggregate the a claim or proceedings which have already been commenced on a geographic basis.
- 2.5.4 The County's insurance department have disaggregated current claims (a number of which involve court proceedings but not all) on the basis of geography for those to be taken by Cumberland and Westmorland and for those to be taken by the Fire Authority. There are a number of matters which cannot be split on a geographic or service basis and therefore agreement needs to be reached as to how the liability of those matters will be shared between the successor councils. The proposal detailed in the Section 16 Agreement is that those cases transfer and vest in the successor councils on a joint and several basis and the right, liability and costs will be split on a proportionate basis being 50/50 unless agreed otherwise. Any dispute as to the proportion of liability will be referred to arbitration for resolution.
- 2.5.5 Insurance officers have completed an analysis of the insurance policies which will need to be kept in place and which insurance policy will be used to cover any future claims which relate to conduct of the County.
- 2.5.6 There will be claims that are not subject to insurance cover and there will be claims made against the successor councils in the future (as the successors to Cumbria County Council). The successor councils will therefore need to agree a principle on how their liability is proportionally split. The Section 16 Agreement proposes that in those cases that cannot be split on a geographic basis/employer basis, they will vest in the successor councils on a joint and several basis and the right, liability and costs will be split on a proportionate basis to be agreed between the parties acting reasonably and failing agreement to be referred to arbitration. Until such time as agreement has been reached the parties will indemnify each other as required on a 50/50 basis (where Cumberland has the larger proportion) until such time as the matter is settled. Any dispute as to the proportion of liability will be referred to arbitration for resolution.
- 2.5.7 **Contract Liability**
 - 2.5.7.1 There are a number of County Council contracts and frameworks which are being terminated with agreement with the supplier so that they can operate independently for each council from vesting day. There is a small risk of contingent liability under the terminated contract and the termination of the contract does not prevent a claim being brought by either the successor council or

the supplier if the event which leads to the claim arose under the terms of the terminated contract (subject to limitation).

- 2.5.7.2 The liability will be joint and several, which means if it is claim against the successor council the supplier could bring it against one or both successor councils.
- 2.5.7.3 Agreement has been detailed in the Section 16 Agreement that the cases are joint and several and the right, liability and costs will be split on a proportionate basis to be agreed between the parties acting reasonably and failing agreement to be referred to arbitration. Until such time as agreement has been reached the parties should indemnify each other as required on a 50/50 basis.

2.6 Inter-Authority Agreement (IAA), Waste IAA, and Property Transfer Scheme

- 2.6.1 The IAA, and Waste IAA are being agreed between the successor councils in order to manage how a number of services will operate from vesting day. The Section 16 Agreement operates to transfer contracts into the correct authority so that the IAA, and Waste IAA can operate with the service specific contracts that are required. Where a contract has to be hosted by one authority for the continuation of that supply of services, goods or works, the Section 16 Agreement vests that contract in the host authority.
- 2.6.2 In respect of those County's property, assets, rights and liabilities that vest in each new authority (as detailed in paragraph 2.3.7 of this report) the IAA and Waste IAA will operate to bring back together such property, assets, rights and liabilities needed for that host authority to operate the relevant service. The IAA and Waste IAA then detail how any future disaggregation occurs.
- 2.6.3 The Cumbria Commissioner Fire and Rescue Authority ('CCFRA') created under Article 3 of the Police, Fire and Crime Commissioner for Cumbria (Fire and Rescue Authority) Order 2022, are not party to the Section 16 Agreement. However, as the fire authority is currently part of the County until 31st March 2023, there is requirement to disaggregate their property, rights and liabilities and transfer and vest such matters into the CCFRA authority on 1st April 2023. This occurs via the Property Transfer Scheme and Staff Transfer Scheme. These schemes are made by the Secretary of State and are not agreements which either the County Council or the unitary authorities are party to. Work has been undertaken to identify the contracts, fleet and land and property to be wholly vested in the CCFRA. The Staff Transfer Scheme is the equivalent of the Transfer of Undertakings (Protection of Employment)

Regulations 2006, which would not have otherwise applied to this type of reorganisation.

- 2.6.4 Work is underway to establish what other property (including budget disaggregation in accordance with the Financial Disaggregation Principles) and liabilities need to be captured in the Schemes ahead of Vesting Day.

3.0 Consultation

- 3.1** The contents of the report have been presented to the SRO Board and the Senior Leadership Team for Cumberland and the Senior Leadership Team for Westmorland and Furness and their comments incorporated in the updated drafting of the agreement.
- 3.2** The contents of the agreement and the schedules has been worked up by the LGR technical officer workstreams and have been presented to relevant Directors (designate) whose comments are incorporated.

4.0 Alternative Options

- 4.1 If an agreement is not reached on the Authority into which the property, rights and liabilities of the predecessor councils vests the Secretary of State has the ability to appoint a caretaker council to allow the Authorities to agree where the property, rights and liabilities should vest. This would create uncertainty until such time an agreement was reached.

5.0 Implications

Financial, Resources and Procurement

- 5.1 The financial implications are explicit in the agreement and are clearly identified where relevant in the individual schedules There is a separate legal agreement (Fire property transfer agreement) that disaggregates the fire service assets, liabilities and contracts from the County Council. The District Council assets, liabilities and contracts have been aggregated to both Unitary Councils.
- 5.2 By exception Westmorland and Furness Council is holding the LGR Implementation reserve, Modernisation Reserve and CCC General Fund Balance. These will be disaggregated once the Cumbria County Council 2022/23 year-end financial position is finalised and the closing balance on these reserves identified.
- 5.3 The financial disaggregation principles (schedule 12) for separating the assets and liabilities are consistent with the principles discussed and agreed through the Member Implementation Board in November/December 2022. These principles will determine the final opening balance position for both authorities once the 22/23 final accounts for all sovereign councils have been audited.

5.4 The 2023/24 revenue budget agreed by full Council on 7th March 2023 is based on the same agreed financial disaggregation principles.

Human Resources

5.5 A comprehensive programme of activity around TUPE applies to affected staff. Alice Madden 15/3/23

Legal

5.6 Contained within the body of the report.

Health and Sustainability Impact Assessment

5.5 Have you completed a Health and Sustainability Impact Assessment? No

5.6 If you have not completed an Impact Assessment, please explain your reasons: Not applicable

Equality and Diversity

5.7 Have you completed an Equality Impact Analysis? No

5.8 If you have not completed an Impact Analysis, please explain your reasons: Not applicable

Contact Officers

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Appendices Attached to this Report

Section 16 Agreement (DRAFT)

Background Documents Available

None

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