



Committee: CABINET

Date: TUESDAY, 24 JULY 2012

Venue: MORECAMBE TOWN HALL

Time: 10.00 A.M.

A G E N D A

1. **Apologies**

2. **Minutes**

To receive as a correct record the minutes of Cabinet held on Tuesday 3 July, 2012 (previously circulated).

3. **Items of Urgent Business Authorised by the Leader**

To consider any such items authorised by the Leader and to consider where in the agenda the item(s) are to be considered.

4. **Declarations of Interest**

To consider any such declarations.

5. **Public Speaking**

To consider any such requests received in accordance with the approved procedure.

Reports from Overview and Scrutiny

None

Reports

6. **Adoption of Dog Control Orders (Pages 1 - 10)**

(Cabinet Member with Special Responsibility Councillor Leytham)

Report of the Head of Health & Housing

7. **Waste/ Recycling Collection- Updated Policies for Householders (Pages 11 - 20)**

(Cabinet Member with Special Responsibility Councillor Smith)

Report of the Head of Environmental Services

8. **Second Homes Funding 2012-13 (Pages 21 - 28)**

(Cabinet Member with Special Responsibility Councillor Blamire)

Report of the Head of Community Engagement

9. **Acceptance of External Funding for Lancaster District CSP (Pages 29 - 31)**

(Cabinet Member with Special Responsibility Councillor Smith)

Report of the Head of Environmental Services

10. **Empty Homes Enforced Sale Procedure (Pages 32 - 53)**

(Cabinet Member with Special Responsibility Councillor Hanson)

Report of the Head of Regeneration and Planning

11. **Proposed Introduction of Fees for Pre-Planning Application and Householder Development Advice (Pages 54 - 62)**

(Cabinet Member with Special Responsibility Councillor Hanson)

Report of the Head of Regeneration & Planning

12. **Lancaster Business Improvement District (BID) Draft Proposal (Pages 63 - 141)**

(Cabinet Member with Special Responsibility Councillor Hanson)

Report of Head of Regeneration & Planning Service

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors Eileen Blamire (Chairman), Janice Hanson (Vice-Chairman), Jon Barry, Abbott Bryning, Tim Hamilton-Cox, Karen Leytham, Ron Sands and David Smith

(ii) Queries regarding this Agenda

Please contact Liz Bateson, Democratic Services - telephone (01524) 582047, or email ebateson@lancaster.gov.uk.

(iii) Apologies

Please contact Members' Secretary, telephone 582170, or alternatively email memberservices@lancaster.gov.uk.

MARK CULLINAN,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER LA1 1PJ

Published on Thursday, 12 July, 2012.

CABINET

Adoption of Dog Control Orders 24 July 2012

Report of Head of Health & Housing

PURPOSE OF REPORT			
To seek approval to make Dog Control Orders.			
Key Decision	X	Non-Key Decision	Referral from Cabinet Member
Date Included in Forward Plan	May 2012		
This report is public.			

RECOMMENDATIONS OF COUNCILLOR LEYTHAM

- (1) That four Dog Control Orders be made, to include provisions as set out in this report.
- (2) That the Leader, in accordance with Rule 1.4 of the Cabinet Procedure Rules amends the Officer Scheme of Delegation, (which forms part of the executive arrangements), to delegate to the Head of Health and Housing authority to designate in writing authorised officers for the purposes of Part 6 of the Clean Neighbourhoods and Environment Act 2005.

1.0 Introduction

- 1.1 The Cabinet meeting on 6 December 2011 approved the commencement of the public consultation process which is a statutory pre-requisite prior to making Dog Control Orders (DCOs) under the Clean Neighbourhoods and Environment Act 2005. The public consultation took place from 29 March 2012 to 11 May 2012 and received a substantial response, with 849 people responding by email, letter, face-to-face survey, paper questionnaire or online.

2.0 Proposal Details

- 2.1 After taking into consideration the representations made during the statutory public consultation, it is proposed that the council now adopts DCOs as detailed below. An analysis of the consultation responses is attached at Appendix 1.

Fixed Penalty Notices

- 2.2 It is proposed that DCO Fixed Penalty Notices will carry a similar penalty to litter offences under the Clean Neighbourhoods and Environment Act 2005 which are already enforced by Environmental Services using Fixed Penalty Notices and carry an £80 penalty. Environmental Services introduced a discount for early payment due to difficulties experienced in obtaining payments. In the paper and online questionnaires provided for responses to the DCO consultation a question was included asking whether respondents felt an early-payment discount should be given. 57.3% of respondents answered yes, 28.1% answered no, and 14.6% were not sure. A further question was asked regarding what the discount should be. 82.8% responded it should be £50 instead of £80, 11.3% responded £60 instead of £80, and 5.9% responded £70 instead of £80.

It is proposed that the level of fixed penalty be set at £80 reduced to £50 for early payment.

In accordance with the Act, fixed penalty notices may only be issued by “authorised officers”, and it is recommended that the Leader amend the Officer Scheme of Delegation to authorise the Head of Health and Housing to designate such authorised officers.

The Original Proposals subject to public consultation

Dog Control Order (1) - Removal of dog faeces

- 2.3 This DCO would make it an offence to fail to remove dog faeces on any land which is open to the air on at least one side and to which the public are entitled or permitted to have access. It is proposed to apply a blanket designation across the entire district. The majority of respondents were in favour of this proposal, with only 5 respondents commenting that it was an over-reaction to a small problem.

Dog Control Order (2) - Dog Exclusion

- 2.4 There are certain places where dogs could present particular risks and where it is prudent to ban them completely, for all or part of the year. These are termed ‘dog exclusion’ areas for purposes of this DCO proposal.
- 2.5 This DCO would make it an offence to permit a dog to enter defined areas of land from which dogs are to be lawfully excluded, and would apply to enclosed children’s playgrounds, enclosed sports pitches and the splash-pool in Happy Mount Park. Public consultation produced no objections to proposals for these places.
- 2.6 Dog Exclusion DCOs have already been in place on Morecambe’s North and South Beaches for several years. Four respondents expressed views that these beach exclusions should be extended from summer to all year round, and extended to include all beaches. However it is proposed that dog exclusion on these beaches is continued as a seasonal control.

- 2.7 Dallas Road Gardens, Lancaster, is already designated as a Dog Exclusion area under council byelaws. However, dogs are permitted on leads under council byelaws in similar public gardens in the district. This proposed DCO would address the anomaly by including Dallas Road Gardens in the Dogs on Leads DCO, however six respondents have expressed a preference that Dallas Road Gardens remain an exclusion area due to frequenting by children from a nearby primary school.

Dog Control Order (3) - Dogs on Leads under Direction

- 2.8 This DCO would make it an offence not to put and keep a dog on a lead when directed to do so by an officer authorised in writing by the council. This is intended to be used under exceptional circumstances where a dog is causing nuisance. It is proposed to apply a blanket designation throughout the district, enabling this power to be used as and when necessary, for example, when a dog is running around out of control during a sporting event or where lots of children are playing. Respondents raised no objections and in fact the Kennel Club and The Dogs' Trust preferred this to be used instead of a Dogs on Leads DCO in as many places as possible.

Dog Control Order (4) - Dogs on Leads

- 2.9 This DCO would make it an offence not to keep a dog on a lead on defined areas of land. On the basis detailed in a report to Cabinet on 6 December 2011, it was originally proposed to apply this DCO to:

- All public highways, footways and adjoining verges, including Morecambe promenade, pedestrianised areas and off-road cycle routes.
- Car parks and public vehicle parking areas maintained by the council:
- Cemeteries and churchyards.
- Certain council parks and gardens.

It is not proposed to apply this DCO to canal towpaths.

- 2.10 The highest number of objections was received about these proposals, mostly concerning two specific issues addressed at 2.9 and 2.10 below. The remaining areas proposed in the public consultation are listed at 2.11, a summary of the public consultation response and any appropriate commentary.

Off-road 'cycle ways'

- 2.11 There was a very high volume of responses relating specifically to the River Lune Millennium Park from Glasson to Caton. On this issue the vast majority of respondents, split more or less evenly between dog walkers and cyclists, objected to this proposal. In face to face surveys carried out on the Lancaster

to Morecambe Cycleway and the River Lune Millennium Park, while 68% of respondents on the River Lune Millennium Park objected to dogs on leads controls, 64% of respondents on the Lancaster to Morecambe Cycleway, which incidentally was much busier, supported the Dogs on Leads DCO. However, this was not in line with the majority opinion. The general feeling appears to be that holding dogs on leads on cycle ways is unnecessary because most dog walkers, cyclists and other users are considerate and take steps to avoid obvious conflict with each other. A number of respondents made the observation that dogs on leads can be more hazardous to cyclists, particularly when extending type dog leads are used, because they are more likely to stretch across and block the path of cyclists, also they can be difficult for approaching cyclists to see.

A public concern was also raised that requiring dogs to be on leads could lead over time to such routes becoming viewed as cyclist-priority routes rather than multi-user routes, and that this could lead to a potential risk of cyclists travelling faster and less carefully.

Some respondents were concerned that they would not be able to give dogs sufficient exercise if they were not allowed off leads, that dogs would then be less able to socialise, and that this could contribute to aggressive behaviour.

It is proposed that the Dogs on Leads DCO does not apply to these formal off-road cycle ways.

The Promenade between Hest Bank and Heysham

- 2.12 The Dogs on Leads DCO is proposed for the full length of Morecambe Promenade, extending from the highway kerb to the seaward edge of the promenade including all grassed and garden areas, jetties and slipways. With the exception of the slipways, these areas are already designated as dogs on leads areas under existing council byelaws that will cease to have legal effect when any of the proposed new DCOs are made. Three respondents have objected to the inclusion of slipways on grounds that it is not necessary.

The field at the promenade end of Whinnysty Lane, Heysham currently has no dog controls in place and is a very popular dog exercise area. Although the DCO proposals did not concern this field, public confusion arose during the consultation due to rumours that a Dog on Leads DCO was to be made there. In fact there is no change proposed under the DCOs. The opportunity will however be taken to clarify the definition of land associated with the Promenade and subject to the dogs on leads DCO.

Other areas proposed for 'dogs on leads' control

2.13 The other proposed areas and public consultation responses are outlined

Proposed area	Public consultation response
Car parks and public vehicle parking areas maintained by the council	No objections were received
pedestrianised areas of central Lancaster and central Morecambe	No objections were received
Cemeteries, graveyards and burial grounds, and the Lancaster and Morecambe Crematorium grounds	No objections were received
Certain public gardens: <ul style="list-style-type: none"> • Dallas Road Gardens in Lancaster • Regent Park, Happy Mount Park and Hall Park in Morecambe 	A small number of objections were received regarding Dallas Road Gardens, (which is currently a Dog Exclusion Zone), due to its proximity to a primary school
Public Highways, including the adjoining footways and verges	Objections were received from several rural parishes that leads are not necessary on quiet country lanes with 40mph speed limits or above

Officers have identified no significant adverse implications if, in line with the stated preference of a number of consultees in rural areas, the proposed Dogs on Leads DCO is amended to disapply it to quiet rural lanes with speed limits of 40mph or above. A definition of 'quiet rural lanes' making compliance and enforcement straightforward will be provided in the final wording of this DCO.

2.14 Very few objections were made during public consultation about areas of land other than cycle ways and country lanes. It is the advice of officers that they are outweighed by the value of Dogs on Leads control.

2.15 The Kennel Club and the Dogs' Trust have expressed a general preference for a district wide Dogs on Leads under Direction DCO approach rather than Dogs on Leads DCO approach. Officer advice is that this method would be less effective than the Dogs on Lead approach and would require greater resources to be expended by the Council. It is therefore not a supported suggestion.

2.16 Taking these considerations into account, the proposed scope of the Dogs on Leads DCO has been revised in light of public consultation. The revised proposal is for the Dogs on Leads DCO is that it would apply district-wide as outlined at paragraph 2.7 with two exceptions: off-road cycle ways mentioned above in this report, and quiet rural roads with speed limits of 40 mph or higher.

3.0 Details of Consultation

3.1 The formal consultation process required under the Clean Neighbourhoods and Environment Act 2005 has been carried out, extending far beyond the minimum required. This report considers and summarises the outcome of that consultation.

4.0 Options and Options Analysis (including risk assessment)

4.1 Three straightforward options reflecting responses received during public consultation are presented in the table below. Officers would advise against Option 3. Members may make DCOs on any other basis than the recommendations contained in this report. However there may be complications and it would be necessary to address legal, financial and practical implications before finalising any DCO formulated differently than either Option 1 or 2.

	Option 1: Adopt the DCOs as proposed in the consultation document, including amendments so that the Dogs on Leads DCO does not apply to cycle ways or to quiet rural lanes with speed limits of 40mph or higher	Option 2: Adopting the DCOs as originally proposed, retaining control under the Dogs on Leads DCO for cycle ways and all highways	Option 3: Do not adopt the DCOs
Advantages	<ul style="list-style-type: none"> • Reflects the majority of representations made during the public consultation. • Enables less able-bodied people to continue to exercise dogs off leads on the flat hard surfaces of 'cycle ways'. • More consistent and less confusing enforcement. • More rapid, effective and efficient enforcement using Fixed Penalty Notices, compared to the majority current method of prosecuting through the court system. • Supportive of Dogs on Leads under Direction DCO in areas not included in a Dogs on Leads DCO. 	<ul style="list-style-type: none"> • More consistent and less confusing enforcement. • More rapid, effective and efficient enforcement using Fixed Penalty Notices, compared to the majority current method of prosecuting through the court system. • Supportive of Dogs on Leads under Direction DCO in areas not included in a Dogs on Leads DCO. 	<ul style="list-style-type: none"> • Saving on staff time to implement new Dog Control Orders, and advertising or signage costs.
Disadvantages	<ul style="list-style-type: none"> • None identified 	<ul style="list-style-type: none"> • Unpopularity within local communities of applying Dogs on Leads DCO to cycle ways and 	<ul style="list-style-type: none"> • Continuation of the current enforcement system which is inconsistent and confusing for the

	Option 1: Adopt the DCOs as proposed in the consultation document, including amendments so that the Dogs on Leads DCO does not apply to cycle ways or to quiet rural lanes with speed limits of 40mph or higher	Option 2: Adopting the DCOs as originally proposed, retaining control under the Dogs on Leads DCO for cycle ways and all highways	Option 3: Do not adopt the DCOs
		<p>roads with a speed limit over 40mph.</p> <ul style="list-style-type: none"> • Reduced availability of off-lead dog exercise areas, particularly in areas where there are few alternatives. • Need for additional enforcement compared to Option 1. 	<p>public.</p> <ul style="list-style-type: none"> • Unnecessary expense and complications in having to prosecute for offences instead of applying fixed penalty notices available under option 1 or 2, leading to delays and lower efficiency and cost-effectiveness. • The extent of land within the district on which regulatory dog controls apply would remain limited.
Risks	<ul style="list-style-type: none"> • The decision concerning Dogs on Leads would not reflect the views of a minority of consultees 	<ul style="list-style-type: none"> • The decision to go against the majority opinion of consultees could lead to some public dissatisfaction. 	<ul style="list-style-type: none"> • The decision not to introduce available dog-related regulatory measures for public protection would lead to criticism, particularly given the strength of public feeling about aspects of irresponsible dog ownership

5.0 Officer Preferred Option (and comments)

5.1 Option 1 – to adopt the DCOs as proposed in the consultation document, with the exception that the Dogs on Leads DCO does not apply to cycle ways or to quiet rural lanes with a 40mph speed limit or higher. This option addresses needs for public protection, supports future enforcement and most closely reflects the majority of public comment arising from the consultation.

6.0 Conclusion

6.1 The purpose of public consultation is to bring proposals to the attention of local communities and to consider all representations made. This particular consultation resulted in a high volume of responses, particularly relating to cycleway proposals, and the proposals have been amended to take public opinion into account. Adoption of the proposed DCOs as revised will lead to more effective dog control and enforcement in the district.

RELATIONSHIP TO POLICY FRAMEWORK

Dog Control Orders are an important component of maintaining the statutory minimum level of dog-related enforcement in future.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

No adverse impacts have been identified in relation to any specific groups within our communities.

LEGAL IMPLICATIONS

Final DCOs to be drafted by Legal Services.

The adoption of DCOs will allow officers to discharge offences with a Fixed Penalty Notice rather than prolonged legal proceedings.

The Council's constitution (at Part 3 Section 15 paragraph 3.8.21) currently provides that the Head of Health and Housing and any staff he/she designates in writing may issue Fixed Penalty Notices under Section 4 of the Dogs (Fouling on Land Act) 1996. On the creation of the DCOs the Council will not be able to prosecute or issue Fixed Penalty Notices under the 1996 Act (pursuant to section 65 of the Clean Neighbourhoods and Environment Act 2005).

The officer scheme of delegation, which forms part of the Leader's executive arrangements, will need to be amended to enable officers to be authorised in writing to issue Fixed Penalty Notices pursuant to the DCOs.

Written authorisation will have to be given to the officers issuing Fixed Penalty Notices under the DCOs.

FINANCIAL IMPLICATIONS

The cost of public notices is expected to be in the region of £1,500 and any costs relating to the implementation of the fixed penalty system including officer time can be managed from within existing budgets.

The introduction of the Dog Control Orders may potentially increase revenue income through issuing fixed penalty notices, but income levels would be difficult to predict. Any income will be highlighted as part of the quarterly monitoring report and included in the revenue budget as part of the forthcoming budget processes.

OTHER RESOURCE IMPLICATIONS

Human Resources:

No implications identified.

Information Services:

No implications identified.

Property:

No implications identified.

Open Spaces:

As detailed in the report the proposals do impact on open spaces and seek to balance the use of open space in the best way.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Clean Neighbourhoods and Environment Act 2005
Defra Guidance on Dog Control Orders
Report to Cabinet 6 December 2011 –
Consultation on Dog Control Orders
Consultation responses

Contact Officer: Susan Clowes

Telephone: 01524 582740

E-mail: sclowes@lancaster.gov.uk

Ref: C104

Appendix 1.**Dog Control Order Public Consultation - Analysis of Responses Received.**

Please note that the wordings below paraphrase the responses made by consultees.

	Survey	Email	Letter	Face	Total
Total Individual responses received:	403	265	27	151	846
Fouling					
More dog bins needed.	18	3	3		24
More signs.	18		2		20
Irresponsible people will not clean up whatever the fine.	14	3			17
Bigger Fines.	12	2	1		15
More wardens needed.	9				9
Over reaction to a small problem, punishing sensible dog owners.	5				5
Agree about fouling there should be stricter actions taken.	4		2		6
How to identify an authorised Officer of the LA.	3		1		4
Why fine, just educate.	3				3
I am in favour of an instant fine for not cleaning up after your dog.	3				3
How much will it cost to enforce?	3				3
Dog bins need emptying more often.	2				2
Please do what you say and prosecute offenders.	1				1
Dogs on lead by direction					
More signs will be needed or fining will not be fair.	1				1
Dog exclusion areas					
Why are dogs not banned from all sports fields.	14	1	1		16
Banning dogs from Parks is a good idea.	12	2	2		16
Dogs should not be allowed in Dallas Road Gardens.		6			6
Extend beach ban.	3	1			4
More signs are needed and bigger fines.	2				2
Banning dogs from Parks may have a negative effect on tourism in area.	2				2
Continued overleaf.					
Dogs on leads					
Should be off the lead on cycleways. More dangerous when on a lead.	117	162	18	60	357
Dogs need proper off lead exercise.	21	19	1		41
It should be mandatory to have a dog on a lead on cyclepaths or towpaths.	17	15		86	118
Over reaction to a small problem, punishing sensible dog owners.	6	7			13
No local provision for dog exercise / meeting areas.	4	8			12
Short leads only, especially on cycleways.	6	2	1		9
More signs.	3	1			4
More wardens needed.	3				3
Dogs should be on leads in cemeteries and church yards.	3				3
Why fine? Just educate.	2	1			3
Good idea to enforce dogs on leads and extend area of control.	1	2			3
Dogs should be allowed off leads on slipway.		3			3
Dogs should be allowed off leads on promenade.		3			3
Bigger Fines.	2				2
More manpower needed to carry out patrols and catch the guilty parties.	2				2
All dogs should be microchipped.	1	1			2
Retractable leads should be allowed.	1	1			2
Dogs on leads on pavements and in towns.			2		2
How do I walk with two sticks and put my dog on a lead.	1				1
Dogs on leads everywhere between 9.30 and 18.00 in the Summer.	1				1
Dogs off lead area in Happy Mount Park.			1		1
Notes: All responders may have highlighted more than one issue that has or has not been noted, dependant on relevance to information sought.					

CABINET**Waste / Recycling Collection- Updated Policies for
Householders****24th July 2012****Report of Head of Environmental Services**

PURPOSE OF REPORT			
To seek Cabinet approval for a set of updated policies for household waste collection / recycling.			
Key Decision	X	Non-Key Decision	Referral from Cabinet Member
Date Included in Forward Plan	April 2012		
This report is public			

RECOMMENDATIONS OF COUNCILLOR D SMITH

- (1) That Cabinet approves the waste / recycling collection- updated policies for householders set out in the report.

1.0 Introduction

1.1 A priority in the Council's corporate plan is the provision of 'Clean, Green and Safe Places'. One of the measures of success for this will be increasing the amount of household waste that is recycled or composted and reducing the amount that isn't. In so doing the Council will be contributing to the delivery of the Lancashire Waste Strategy.

1.2 This priority has to be delivered within current budgetary and resource pressures and the potential for this pressure to increase in the coming years. This means that is important to get the most from the Council's assets and resources. With this in mind Cabinet considered the subject of charges for the delivery of wheeled bins and boxes at the meeting of 14 February 2012, when it resolved to:

"(i) That Cabinet does not approve the introduction of charges to householders for the delivery of wheeled bins and recycling boxes as part of the 2012/13 budget.

(ii) That the costs of replacing wheeled bins and recycling boxes be

monitored and reported to Cabinet on a monthly basis and consideration given to the possibility of introducing such charges as part of the 2013/14 budget process if requests for replacements continue to rise.”

1.3 Whilst The Council has not introduced charges for replacement wheeled bins and boxes it is still imperative that we have in place policies that support-

- The reduction of the overall amount of waste that householders produce
- An increase in the % amount of household waste re-used, recycled and composted.
- Making the best use of the Council’s limited resources.

2.0 Proposal

2.1 The report sets a range of policies to support this. These policies are tried and tested and adapted to fit local needs. They have naturally developed in conjunction with the roll out of the waste collection / recycling arrangements that are now fully established in this District. It is therefore appropriate that they are now agreed by Cabinet. This will then provide a consistent set of standards for the provision of the Council’s waste and recycling collection service.

2.2 Included are measures to restrict the grey bin capacity to households, which will encourage them to fully participate in the Council’s recycling scheme and also help control the amount of replacement and extra bins provided to households.

WASTE / RECYCLING COLLECTION- UPDATED POLICIES FOR HOUSEHOLDERS

1	Households Requiring Additional Residual Containers (grey bins)	<p>Residents are not automatically entitled to additional containers for non-recyclable waste (grey bins). If a resident requests an additional grey bin, a questionnaire will be issued to the householder for their completion and return.</p> <p>Following receipt of the completed questionnaire a waste audit will be arranged. The purpose of the audit is to ensure that the householder is recycling fully and to allow Council officers to provide waste minimisation advice.</p> <p>If the request is approved, the householder will be issued with an additional 140L container.</p> <p>If the request is declined, the householder will be sent a letter setting out the reasons why.</p>
2	Replacement of Wheeled Bins	<p>Replacement wheeled bins will only be provided after investigating the loss of the container.</p>

		<p>In the first instance requests for replacements would be made via Customer Services.</p> <p>A maximum number of three containers will be replaced per household.</p> <p>If it is found that bins are being misused, they will be removed and the household will instead be provided with orange sacks. Household waste produced by the property will then be monitored to ensure that bags are being left out on the appropriate day etc (in line with the council's enforcement procedures).</p> <p>For damaged bins, if the cause of the damage is found to be due to neglect/abuse of the container, householders will be charged the cost of the replacement container.</p> <p>If the Council has caused the loss or damage, the Council will provide the replacement free of charge.</p>
<p>3</p>	<p>Misuse of Grey Wheeled Bins</p>	<p>It is important that householders make full use of the recycling facilities provided by the Council and that householders don't misuse grey bins by trying to dispose of types of waste that the Council doesn't collect.</p> <p>If the grey bin is continually contaminated with non-residual waste (eg chemicals, batteries, paint, oil) or contains waste that could be recycled / composted every effort will be made to help the householder rectify this situation.</p> <p>These efforts will be made through education and if appropriate enforcement to help the householder rectify the situation</p> <p>It is recognised that in most cases educating the householder will be all that is required.</p> <p>Where continued efforts fail to work a strict rule of 'three strikes and you are out' will apply; (giving the householder two chances to improve the situation).</p> <p>If no effort is made to improve, on the third 'strike', the bin will be removed.</p> <p>The bin will be replaced with orange sacks and waste from the property will be monitored to ensure that bags are being left out on the appropriate day etc (in line with the council's enforcement procedures).</p> <p>The bin will only be replaced subject to the</p>

		<p>householder providing, in writing, an undertaking that future misuse does not occur.</p>
<p>4</p>	<p>Misuse of Green Wheeled Bins</p>	<p>If the green bin is continually contaminated with non-compostable waste (this includes household waste) bin tags will be left on the bin to inform the residents the reason why the bin has not been emptied.</p> <p>Efforts will be made through education and if appropriate enforcement to help the householder rectify the situation.</p> <p>It is recognised that in most cases educating the householder will be all that is required.</p> <p>Where these efforts fail to work a strict rule of ‘three strikes and you are out’ will apply; (giving the householder two chances to improve the situation).</p> <p>If no effort is made to improve, on the third ‘strike’, the bin will be removed</p> <p>The bin will be replaced with compostable bags and waste from the property will be monitored to ensure that bags are being left out on the appropriate day etc (in line with the council’s enforcement procedures).</p> <p>The bin will only be replaced subject to the householder confirming, in writing, an undertaking ensuring future abuse does not occur.</p>
<p>5</p>	<p>Misuse of Recycling Boxes</p>	<p>If householders do not use the boxes for their intended use (the storage of appropriate recyclables) efforts will be made through education and if appropriate enforcement to help the householder rectify the situation.</p> <p>It is recognised that in most cases educating the householder will be all that is required.</p> <p>Where these efforts fail to work a strict rule of ‘three strikes and you are out’ will apply; (giving the householder two chances to improve the situation).</p> <p>If no effort is made to improve, on the third ‘strike’, the recycling boxes will be removed.</p> <p>Officers will continue to work with the householder to help them recycle before enforcement action is taken against them.</p> <p>Box cards will be used to inform the residents the reason why the box has not been emptied.</p>

6	Misuse of Food Waste Caddies.	<p>For the benefit of the health and safety of the collection staff, food waste must be presented for collection in a solid form and not liquid.</p> <p>If food waste is not presented appropriately a bin tag will be left for the householder to inform them of why it has not been collected.</p> <p>Officers will educate and support the householders to improve the situation.</p>
7	Side Waste	<p>In order to encourage householders to minimise and segregate their waste into recyclable and non-recyclable waste, side waste <i>will not</i> be collected.</p> <p>Education of householders to minimise and manage their waste will continue.</p> <p>Enforcement action will be considered once all other options have been exhausted.</p> <p>This will be relaxed for two weeks following the Christmas holiday period when a limited amount of side waste will be removed. To avoid abuse, this will not be widely advertised.</p>
8	Side Recyclables	<p>The purpose of the waste and recycling scheme is to maximise recycling.</p> <p>Therefore, additional recycling <i>will</i> be taken.</p> <p>Householders can have their additional recycle alongside their recycling boxes in carrier bags or bundled for collection.</p> <p>For safety reasons glass should be only be left for collection in the recycling boxes.</p>
9	Side Green Waste	<p>It is expected that green waste will be contained in a wheeled bin or compostable sacks.</p> <p>Exceptions may be made on an individual basis and if the capacity of the vehicle is deemed sufficient.</p> <p>A maximum of 3 green 240L containers will be provided per property.</p>
10	Assisted	Criterion will be applied to point of storage collections

	Collections	<p>that are offered to elderly and disabled residents.</p> <p>The householders will receive the usual wheeled bins and recycling boxes.</p> <p>Following collection the containers will be returned back to the point of storage.</p> <p>Before qualifying for this service a questionnaire will be signed by the occupant to declare they do require assistance.</p> <p>A list of properties requiring assisted collections will be maintained and reviewed on a regular basis.</p> <p>Assistance <i>will not</i> be provided if there is an able bodied person in the property to put out the bins and boxes.</p>
11	Small Bin Collections	<p>140 litre bins will be issued on request to properties where there is narrow access or lack of storage and where an assisted collection is unnecessary.</p> <p>140 litre containers will be issued to households who have qualified for an additional container.</p> <p>140 Litre containers have been issued to the area within West End of Morecambe known as Zone 3 (approx 770 properties) where on-street recycling facilities are provided.</p>
12	Medical Waste Collections	<p>Additional 140L bins will be provided to households where there is a requirement for medical waste collections that falls outside the clinical waste collection service.</p> <p>A questionnaire will be completed by the householder and reviewed on an annual basis.</p> <p>A waste audit will take place to ensure that the residents are recycling fully.</p>
13	Sack Collection	<p>Every effort will be made to allow people to use wheelie bins and recycling boxes.</p> <p>In flats this will include communal waste and recycling areas.</p> <p>Special collection systems are provided for areas (eg within the West End of Morecambe and in Lancaster</p>

		<p>city centre) where it is difficult to provide containers due to access issues.</p> <p>Sacks containing residual waste are collected on a weekly basis in some specific areas. Weekly collections will only be available once other collection methods have been determined to be unfeasible.</p> <p>Every effort will be made to reduce the number of properties on weekly sack collections.</p> <p>Residents who refuse to use the other aspects of the waste management system (eg recycling) would not be provided with a weekly collection.</p>
14	Private Drives	<p>Householders will be expected to pull their bins and boxes out to the end of private drives to the edge of their property at the nearest point to the highway.</p> <p>Assistance will be provided as necessary according to certain criteria (see point 10).</p>
15	Composite Dwellings (A shop/business with residence above).	<p>An allowance will be made for composite dwellings whereby a proportion of payments will be made as per existing arrangements. Recycling boxes will be provided.</p> <p>Payments will be made to cover the business element of the waste.</p>
16	Missed Bins	<p>Drivers will provide at the end of each day a list of properties where grey/green bins were not presented for collection.</p> <p>Should a resident contact us to inform of a missed collection and their property is on the list, we will not return to the property for the container.</p> <p>We aim to collect genuine missed collections within 72 working hours.</p>
17	Enforcement of Unauthorised Containers	<p>Unauthorised containers will be removed from properties.</p> <p>Removal of unauthorised containers will be ad-hoc, as and when we come across them or through targeted enforcement action.</p> <p>Contact via letter or face-to-face will inform the residents of the procedure for approving additional</p>

		containers.
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2.0 Proposal Details

2.1 It is proposed that the set of updated policies for household waste collection / recycling is formally approved by Cabinet.

3.0 Details of Consultation

3.1 The waste collection / recycling arrangements that are currently in place in the District have taken around 10 years to be fully rolled out. During that period the policies set out above have been introduced on a gradual basis as operational issues have arisen. Therefore, the set of policies above is not new. However they have been reviewed and updated so that they can be approved by Cabinet. Because they have evolved over such a long period of time they take into account feedback from residents, elected members, staff and also best practice from other areas.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: To adopt the set of policies outlined	Option 2: To adopt only parts of the policies outlined	Option 3: Not to adopt the policy outlined
Advantages	<p>Clear guidelines for officers to work to.</p> <p>Consistent service to householders.</p> <p>Encourages householders to maximise recycling.</p> <p>Achieve the success measures set out in the corporate priority Clean, Green & Safe Places.</p> <p>Continue to deliver the objectives of the Lancashire Waste Strategy 2008-2020</p> <p>Supports the control measures for monitoring costs of replacing wheeled</p>	<p>Clear guidelines for officers and consistent service to householders where parts of the draft Policy have been adopted.</p>	

	<p>bins and recycling boxes .</p> <p>Can be delivered within existing budgets.</p> <p>Tried and tested and adapted to local needs.</p>		
Disadvantages		<p>Lack of clarity and consistency, where parts of the draft Policy have not been adopted.</p> <p>Potential of not achieving all the objectives of Clean, Green & Safe Places.</p> <p>May not be possible to deliver within existing budgets.</p> <p>Not tried and tested</p>	<p>No clear guidelines for officers to work to.</p> <p>No consistency in service to householders.</p> <p>No restraint to grey bin capacity to householders.</p>
Risks	<p>Dissatisfaction of some householders that the quality of the service falls below their level of expectation</p>		<p>Dissatisfaction of some householders at perceived differences in level of service</p> <p>The potential to lead to continued budget requests, through the budget process, if requests for replacements continue to rise.</p>

5.0 Officer Preferred Option (and comments)

- 5.1 Option 1 – to formally agree the tried and tested set of policies as set out above. The adoption of these will provide clear and consistent guidelines for both officers and householders, encourage householders to maximise recycling and make the most efficient use of limited Council resources.

6.0 Conclusion

RELATIONSHIP TO POLICY FRAMEWORK

As set out in the report

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The policies set out in the report will be applied consistently throughout the District. They have however been designed to account of the diverse needs of the residents of the District.

LEGAL IMPLICATIONS

Legal have been consulted and have no comments to make

FINANCIAL IMPLICATIONS

The set of policies outlined within the report can be provided within existing budgets. Previous reports to cabinet have highlighted the potential risk to budgets with regard to not charging for replacement of bins and boxes. These policies do at least put in place some control measures.

Cabinet should be aware that were they to recommend changes to the policies outlined they could well have financial implications which would need to be reconsidered.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

Customer Services have been consulted on the report

Property:

None

Open Spaces:

None

DEPUTY SECTION 151 OFFICER'S COMMENTS

The proposed policies are consistent with Cabinet's decision on 14th February 2012 regarding the charging policy and with the budgetary position for 2012/13. If any changes to the draft policy are proposed (option 2) which have further financial implications, these could be outside the budget framework and require further consideration and decision.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments

BACKGROUND PAPERS

Contact Officer: Mark Davies
Telephone: 01524 582401
E-mail: mdavies@lancaster.gov.uk
Ref:

CABINET

**Second Homes Funding 2012 - 2013
24 July 2012**

Report of Head of Community Engagement

PURPOSE OF REPORT				
This report is to allow Cabinet to consider and confirm arrangements for application and decision making processes for Second Homes Funding for 2012 – 2013				
Key Decision	X	Non-Key Decision	Referral from Cabinet Member	
Date Included in Forward Plan	21 June 2012			
This report is public				

RECOMMENDATIONS OF Head of Community Engagement

It is recommended that:

- (1) Cabinet approves the proposed arrangements to allocate £294,808 of Second Homes Funding through an open bidding process to Voluntary, Community, Faith and Arts organisations
- (2) The fund is promoted as the *Take Pride* Community Fund
- (3) An advisory panel is established to consider funding applications, recommend allocations and oversee progress with final funding allocations being determined by Cabinet
- (4) Cabinet nominates relevant city council portfolio holders and requests Lancashire County Council to nominate the relevant county council portfolio holder to act as members of the advisory panel
- (5) Applications are now invited for investment grants leading to development of the Voluntary, Community and Faith sector and the Arts sector in line with the options agreed by Cabinet in May 2012 (Minute 8 refers)
- (6) Cabinet considers the specific urgent request for funding support from Carnforth Local Information Centre
- (7) The remaining £13,847 of unallocated Second Homes funding from 2011 – 2012 is used to provide the necessary administration resources to ensure the funds are managed and monitored in line with the council's role as accountable body and county council requirements

1.0 Introduction

- 1.1 At its meeting on the 29th May 2012 Cabinet noted the availability of around £290,000 of SHF (Second Homes Funding) for 2012-13 and supported using it in a variety of ways *“to address issues and develop opportunities for the Voluntary, Community and Faith and the Arts sector.”* (Minute 8 refers)
- 1.2 It was requested that a further report be brought back to Cabinet setting out detailed proposals on the management and administration arrangements for a bidding process to allocate SHF. Cabinet requested that the funds support a combination of all of the options presented in the report, which include:
- Infrastructure support
 - Premises and accommodation
 - Volunteering Coordination
 - One-off investment grants
 - Smaller grants to invest in small scale developments

2.0 Proposal Details

- 2.1 As this is a single opportunity for the council to invest in VCF and Arts development, it seems appropriate to brand the fund to reflect the aspirations behind the scheme and also the council's positive approach in encouraging local pride. To reflect this, it is proposed that this fund is promoted as the “Take Pride Community Fund”.
- 2.2 In order to fairly, effectively and transparently allocate this funding, it is proposed that organisations in the Voluntary, Community and Faith (VCF) and the Arts sectors are invited to bid for funding to provide infrastructure support, develop premises, coordinate and support volunteering and develop longer term sustainability for their organisations and key services.
- 2.3 A decision making panel will be required to determine which bids are supported at Expression of Interest stage and also for final approvals and grant allocations. It is proposed, as part of this report, that Cabinet appoints the relevant city council portfolio holders to the panel and that a nomination is requested from Lancashire County Council for a relevant county council portfolio holder.
- 2.4 To support the decision making panel, officers will provide co-ordination and technical support, including checks to ensure applications are complete and that proposals are eligible and deliverable. Following this, appraisal panels with the relevant expertise will be established to assess bids against the scheme criteria. The views of relevant partners may be sought throughout these processes to ensure the best information possible is available to the decision making panel.
- 2.5 It is proposed that applications are two stage with an initial Expression of Interest followed by full application, both to be appraised in line with scheme criteria. A final decision on successful bids will be made in October /November 2012.
- 2.6 Potential proposals vary considerably and have different requirements for funding and different kinds of outcomes. To address this, it is recommended that applicants have the opportunity to bid for smaller or larger grants, providing a clear justification for the level of grant requested:

Up to £50,000 – likely to be collaborative bids to support important proposals, leading to lasting improvements or benefits, increased sustainability and advantages for a number of organisations. Indicative total of £180,000 available.

Up to £10,000 – individual bids that require less funding and may be delivered in the shorter term but lead to the development and increased sustainability of individual organisations and services in the future. Indicative total of £114,800 available (balance of funds).

- 2.7 Although indicative totals of £180,000 and £114,800 respectively are proposed, it is recommended that the advisory panel is able to recommend variations to these limits, within the overall funds available, taking into account relevant factors including demand, the strength of proposals submitted and the value of benefits to be delivered.
- 2.8 Officer support will be provided to potential bidders throughout the process, including workshop events that advise on the application process, criteria and decision making arrangements in detail.
- 2.9 The staff resource currently in place to effectively administer the application, allocation and monitoring processes for Second Homes Funding will not be available after September 2012. It is therefore proposed that the remaining unallocated SHF of £13,847 from 2011/12 is used to extend support for scheme co-ordination, to ensure that the council's accountable body requirements and those of Lancashire County Council are met.
- 2.10 A summary of outline arrangements is attached at **Appendix A**

Carnforth Local Information Centre

- 2.11 Cabinet at its meeting on 19th January 2010 resolved that:
“That Cabinet approves the use of the additional grant allocation of £52,631 for initiatives to support temporary re-use of vacant shops and other retail support measures in Lancaster, Morecambe, and Carnforth, to be split approximately as £22,000 each for Lancaster and Morecambe and £8,000 for Carnforth. (Min. No.109 refers)
- 2.12 A detailed proposal and business case was submitted to bring an empty shop unit at Carnforth Railway Centre back into use in August 2010. The unit was to be used to home a local Information Centre, to, *“provide a first class, face-to-face information service for visitors to the area. This will encourage walking, cycling and travel by train and bus to the various amenities within easy reach of the town centre. We will work in partnership with local businesses to promote Carnforth and its surrounding attractions”.*
- 2.13 The Information Centre proposal was approved and received an offer letter which detailed that the Chamber had been allocated a sum not exceeding £8,000 and it was made clear at that time that no further would be available beyond the grant funding.
- 2.14 The business case for the Information Centre anticipated income being generated through various sources leading to a small surplus in Years 1 and 2. Unfortunately that income was not generated with the result that unless further financial support is allocated, the centre will close shortly as it is unable to meet the rental cost of the

unit. A specific urgent request is being made to Cabinet to allocate £8,000 of Second Homes funding to cover the rent for this year and the next. This would provide more time for the centre to put itself on a firmer financial footing.

3.0 Details of Consultation

3.1 Discussions have taken place with Lancashire County Council on an informal basis. In addition, officers are monitoring issues and opportunities in relation to the VCF and Arts sectors via the current Service Level Agreements and more informally as part of a range of current partnership working arrangements. The issues and opportunities have been identified as part of these processes.

4.0 Options and Options Analysis (including risk assessment)

	Advantages	Disadvantages	Risks
<p>Option 1 A two fold process to include smaller and larger grants with indicative allocations</p>	<p>Flexible approach that allows funds to be steered towards projects of all sizes</p> <p>Inclusive and accessible for organisations of all sizes and varying capacity</p> <p>Allows investment in both larger, collaborative initiatives with longer term benefits and also specific initiatives assisting individual organisations and the services they deliver</p> <p>Likely to promote good value for money by encouraging applications for funding at levels appropriate to the size and scope of the project</p>	<p>Range of proposals likely to be broader making decision making processes more complex</p>	<p>Categories will need to be treated separately to ensure fair consideration of bids</p>
<p>Option 2 All grants limited to £10,000, or agreed alternative ceiling, to support individual bids to support development and sustainability</p>	<p>Easier to access for all eligible organisations</p> <p>Possible to approve more individual applications</p>	<p>Larger initiatives creating higher, longer term benefits would not be eligible.</p> <p>No scope to underpin support structures which are required by many organisations</p> <p>Lost chance to increase sustainability, develop sector wide opportunities and achieve efficiencies in relation to VCF and Arts organisations for the future</p> <p>Administrative costs likely to increase</p>	<p>None specifically noted</p>
<p>Option 3 All grants limited to £50,000 or agreed alternative ceiling,</p>	<p>All funds focused on larger initiatives with wider and longer term benefits</p>	<p>Likely to exclude smaller organisations</p> <p>Likely to preclude specific, smaller scale but useful</p>	<p>None specifically noted</p>

to support larger collaborative bids to create longer term sustainable benefits across organisations		initiatives	
Option 4 Carnforth Local Information Centre is funded, at this stage, within Options 1 and 2	This would provide the funding to allow the Information Centre to continue for a further two years	No means of assessing the proposal against scheme criteria No current arrangements in place to assist other organisations facing immediate difficulty.	No clear business plan has been submitted and assessed so no way to ascertain whether the Information Centre will be able to operate at a sustainable level after funding has ceased

5.0 Officer Preferred Option (and comments)

The officer preferred option is **Option 1**. This approach is accessible to more potential applicants and encourages a broader range of proposals. Any additional complexity arising from this is likely to be very manageable within the processes proposed.

Cabinet members views are sought on Option 4, which can be considered alongside the funding arrangements described in Option 1 or 2.

6.0 Conclusion

6.1 The VCF and Arts sectors are important to the local economy and also in terms of the valuable services they deliver. However, both sectors are affected by the impact of funding cuts and other economic factors. The funding available provides an invaluable opportunity to generate new ideas, promote cooperation and deliver benefits for the district. Key themes of the proposed bidding arrangements are longer term sustainability and building on collaboration, to create the resilience needed for the future so that services and benefits for the district are protected.

RELATIONSHIP TO POLICY FRAMEWORK

Requirements for the use of the available Second Homes funding are entirely consistent with the Priorities, Outcomes, Success Measures and Actions identified in council's Corporate Plan 2012 - 15

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Sustainability is identified as one of the core criteria for funding but other impacts will be specifically identified and considered as individual projects or schemes come forward

LEGAL IMPLICATIONS

The council will be required to enter into an agreement with Lancashire County Council in relation to Second Homes funding. No specific legal implications are identified at this stage.

FINANCIAL IMPLICATIONS

As accountable body, the council will be required to manage Second Homes funding in line with existing arrangements. Specific financial implications may arise in relation to individual

projects and schemes and these will be considered as part of agreed reporting processes.

The carry-forward of any unspent funds at the end of the 2012-13 financial year will need to be approved by Lancashire County Council. This constraint will need to taking into consideration at both project and programme level to ensure that funding can be fully reclaimed. Project sponsors will need to be aware of this possible risk.

Confirmation has been received from Lancashire County Council that the £13,847 of SHF from 2011-12 can be carried forward to 2012-13. This sum is therefore available to the City Council to increase the funds available to allocate as grant or to use in providing resources to administer the process. The staff resources to administer Second Homes funding, which are also funded by Second Homes funding but were allocated by the LSP (Local Strategic Partnership) are currently available until September 2012. If approved, Recommendation 7) will allow the staff resources to be extended to provide support for this funding programme. If not approved, consideration of existing workloads and priorities would be required.

OTHER RESOURCE IMPLICATIONS

Human Resources:

No specific implications identified at this stage

Information Services:

None

Property:

No specific implications identified at this stage

Open Spaces:

None

DEPUTY SECTION 151 OFFICER'S COMMENTS

The Deputy Section 151 Officer has been consulted. Members are advised that in considering the recommendations, due account should be given to the administrative implications and any impact on the Council's priorities and associated workloads.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Contact Officer: Anne Marie Harrison
Telephone: 01524 582308
E-mail: amharrison@lancaster.gov.uk



‘Take Pride Community Fund’ Management arrangements

Suggested Timeline

- | | |
|--|---|
| <ul style="list-style-type: none"> • 24 July • 1 August • Mid-late August • 5 September • w/c17 September | <ul style="list-style-type: none"> Cabinet considers bidding process Expressions of Interest invited Funding workshops held Deadline for Expressions of Interest Advisory panel to agree feedback on Expressions of Interest |
| <ul style="list-style-type: none"> • 10 October • w/c 15 October • 6 November | <ul style="list-style-type: none"> Deadline for final bids Advisory panel meets to consider applications Recommendations considered by Cabinet |

Launching of the scheme

Details of the Take Pride Community Fund and the application processes will be widely circulated via partners, press, and on line. Full application packs including guidance, application processes and criteria will be available to potential applicants.

Funding workshops will be held in mid-late August to provide further advice and guidance as necessary and officers will be available throughout the submission period to answer questions.

Expression of Interest Stage

The Expression of Interest stage is recommended to assist applicants by allowing them to receive early feedback on their outline proposals so that can determine if they wish to proceed to the full application stage. This stage will also allow the council to assess the level of interest and any competing demands.

At Expression of Interest stage, to reduce burdens on applicants, a limited number of questions will be asked, and there will be a page limit for submissions. However, every organisation will need to evidence the local need for their project, provide clear outcomes and demonstrate a realistic approach to financing the project.

Expressions of Interest will undergo an initial check to ensure all required information is available, applicants are eligible, proposals within the scope of the scheme and are likely to meet the agreed scheme criteria. Wherever possible, officers will seek to work with interested organisations well ahead of deadlines to resolve any issues in good time.

Expressions of Interest and feedback from initial assessments will be presented to the advisory panel on w/c 17 September. This process will be based on the criteria set out in the report to Cabinet of 26 May, which are:

- a) **Links to identified priorities:** Clear indication of how services will assist the council in delivering its priorities and desired outcomes and support delivery of other approved strategies

b) Deliverability: Assurance that there are no major barriers that could negatively affect delivery of the project.

c) Quality Assurance: The project can demonstrate it can be delivered within budget, timescale and to the required standards.

d) Value for Money: Evidence that the project is economic, efficient and effective and the return on investment can be clearly identified. Also that leverage and match funding from other sources has been achieved wherever possible.

e) Additionality/Cooperation: Evidence that opportunities to add value to other initiatives in the district have been sought and acted upon wherever possible and that duplication is avoided. Alignment with other partnership projects and initiatives.

f) Sustainability: Information to show how services can become more self sustaining in the future with a reducing reliance on short-term grants. Efficiencies have been achieved where possible.

g) Collaboration: Joint submissions where opportunities for collaborative working and shared delivery of services have been sought and proposals developed.

Feedback can then be provided to applicants to assist them in developing a full bid, if they wish to proceed. The advisory panel may also wish to advise applicants if it is perceived that their proposals could be strengthened by collaborating with other partners and potentially submitting a joint application.

Application Stage

It is expected that at this point applicants will be able to provide more substantial information in relation to all of the criteria. Greater levels of evidence, assurance and definition of outcomes will be required. Collaboration between organisations and /or joint submissions will be actively promoted where this is appropriate.

Once the final bids have been submitted officers will undertake an appraisal of each submission against the agreed criteria and provide an appraisal report for consideration by the advisory panel. The panel will then meet to determine which bids will be recommended to Cabinet for approval.

Decision Stage

To assist Cabinet in making funding allocations at its meeting in November, information will be provided for each bid. This will include details of applications and supporting information, appraisal summaries to indicate where the criteria for the scheme are met and also recommendations and comments from the advisory panel.

Release of funding and ongoing support

Grant offers will be made for successful projects specifying the terms and conditions of the grant. The council will normally release funds for successful projects after expenditure has been incurred and a formal claim with supporting evidence has been made. In certain circumstances, advance payments can be made but specific agreement for this will be required. Regular monitoring of projects and reporting will be undertaken in line with the council's normal arrangements for external funding.

CABINET

**Acceptance of external funding for Lancaster District CSP
24 July 2012**

Report of Head of Environmental Services

PURPOSE OF REPORT			
To agree to the acceptance of external funding and act as accountable body, on behalf of Lancaster District CSP			
Key Decision	X	Non-Key Decision	Referral from Cabinet Member
Date Included in Forward Plan	JULY 2012		
This report is public			

RECOMMENDATIONS OF COUNCILLOR SMITH

- (1) That the council accept £47,000 of external funding during 2012/13 on behalf of Lancaster District CSP, and that as in previous years acts as accountable body for that funding.

1.0 Introduction

- 1.1 The council has been requested to take responsibility as accountable body for the management and distribution of £47,000 of Community Safety Partnership (CSP) funding, subject to the council's agreed arrangements for the management of external funds. The funding is being granted to the partnership for 2012/13 by Lancashire Constabulary (£3,000) Lancashire Fire and Rescue Service (£6,000) and Lancashire Police Authority (£38,000).
- 1.2 The Council has acted as accountable body for the CSP since its establishment.

2.0 Proposal Details

- 2.1 As in previous years the available funds will be used to support measures and projects to reduce the levels of crime and disorder detailed in the Lancaster District Community Safety Strategic Assessment and forthcoming CSP Action Plan. This will include partnership working between the local community, the voluntary sector and statutory organisations.
- 2.2 Projects to be funded have already been identified by the CSP, and appropriate oversight and reporting arrangements are already in place. In principle, any

underspend of the grant allocation in the financial year will be held and reallocated by the CSP unless requested return to the provider.

- 2.3 As in previous years the Council’s Partnerships Officer (Community Safety) will act as responsible spending officer for the funding.

3.0 Options and Options Analysis (including risk assessment)

	Option 1: Accept the funding	Option 2: Reject the funding
Advantages	The CSP projects can go ahead as planned	None
Disadvantages	None	Another accountable body would need to be found.
Risks	Council resources are required to investigate and put right any issues identified in the running of the planned projects	A delay in agreeing the funding arrangements for these projects could jeopardise their implementation

4.0 Officer Preferred Option

- 4.1 The Officer preferred option is Option 1

5.0 Conclusion

- 5.1 The council has acted as accountable body for CSP funds for a number of years and has overseen the successful delivery of many projects that meet the aims and objectives of the Council and its partners. It is therefore requested that the Cabinet authorise the acceptance of funds on the CSP’s behalf

<p>RELATIONSHIP TO POLICY FRAMEWORK</p> <p>The Community Safety Action Plan forms part of the Council’s Policy Framework, and the projects these funds will deliver will impact on the council’s corporate priorities of:</p> <ul style="list-style-type: none"> • Clean and Safe Streets • Community Leadership <p>As well as the overarching theme of partnership working</p>
<p>CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</p> <p>Accepting these funds will ensure a positive impact on the issue of community safety across the District.</p>
<p>LEGAL IMPLICATIONS</p> <p>Governance are to be consulted over the contents of any documentation created in relation to any grants</p>
<p>FINANCIAL IMPLICATIONS</p> <p>The 2012/13 general fund revenue budget includes a net amount of £33,100 which relates to</p>

the City Council's contribution to deliver CSP schemes. At the time of producing the budget, the Lancaster District CSP were unable to confirm their funding allocation so it was therefore omitted from the budget.

Should the Council accept the funding amount of £47,000 then the general fund revenue budget will be updated accordingly, subject to there being a nil impact on the council's resources.

The management and distribution of the funding can be met from within the existing management framework and budgets.

OTHER RESOURCE IMPLICATIONS

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments

BACKGROUND PAPERS

Contact Officer: Amanda Crane
Telephone: 01524 582 150
E-mail: acrane@lancaster.gov.uk

CABINET

**Empty Homes Enforced Sale Procedure
24 July 2012**

Report of Head of Regeneration and Planning Service

PURPOSE OF REPORT			
To seek approval for the adoption of an Enforced Sale Procedure as a mechanism to bring problematical long-term empty dwellings in the private sector back into habitable use in cases where Council debts have been registered as a local land charge against the property and not discharged.			
Key Decision	X	Non-Key Decision	Referral from Cabinet Member
Date Included in Forward Plan		JULY 2012	
This report is public			

RECOMMENDATIONS OF COUNCILLOR HANSON

- 1) That Cabinet agrees to adopt the Enforced Sales Procedure which is appended to this report.
- 2) That Cabinet authorises Officers to implement the adopted Enforced Sale procedure in appropriate cases.

1. Introduction

- 1.1 A long-term problematic property is defined as being empty for 6 months or more and derelict, severely neglected and/or in need of substantial repairs.
- 1.2 Long term problematic empty homes are a major cause for concern. They represent waste, financial expense and missed opportunities. They can blight communities, attract vandals and squatters and tie up resources of local authorities and the emergency services. This is an unacceptable situation, especially considering the shortage of supply of affordable housing.

The City Council has an approach to tackling empty properties using a combination of advice, guidance, persuasion and enforcement. The document as Appendix B is a draft enforced sale procedure.

- 1.3 Many Local Authorities are now using an enforced sale procedure as a tool to recoup outstanding charges registered as a Local Land Charge against

properties. This report explains the procedure and the benefits it could bring to the community.

2.0 Proposal Details

Benefits

2.1 Whilst there are many actions a Local Authority can take in respect of empty properties. The enforced sale procedure, now adopted by many Local Authorities, would allow the Council to achieve a number of benefits, including:

- Social Benefits

By selling a property that is in a derelict condition to a new owner, there is a likelihood that the new owner will refurbish the property and this increases the chance it will become inhabited again.

- Financial Benefits

Financial charges which could otherwise prove impossible to recover, can be discharged out of the proceeds of the sale.

- Good Housekeeping Benefits

Owners of properties may become aware of the Local Authority's initiative and in future may discharge their debts more readily, carry out works pursuant to statutory notices served and keep their properties in a reasonable state and condition. This results in less time spent by the Local Authority in having to deal with this problem.

- More Expedient than a Compulsory Purchase Order

Enforced sale procedures are presently more expedient and involve less bureaucracy than making a Compulsory Purchase Order.

Process

2.2 When enforcement action is taken under legislation administered by the local authority, owners are given a specified period of time to complete the works. Where notices are not complied with, the council has the option to carry out works in default and recover costs. All such works carried out are invoiced to the owner, but these may not be paid if, for example, the owner cannot be traced or does not have the means to pay. There remains, therefore, a debt on the property and a continuing empty home.

2.3 If the property has a charge or charges registered against it by the council for carrying out works in default, this gives the council all the powers of a mortgagee under the Law of Property Act 1925, Section 101, to discharge the charge, together with any interest and reasonable expenses. In order for the council to recover their costs from the owner, the only asset available is the property itself, which under the procedure would be sold by the council.

- 2.4 Whilst Compulsory Purchase powers are available under the Housing Act 1985, it has drawbacks, not least of which is the considerable length of time the process takes and the burden on staff resources. Also, such a course of action is dependant on financial resources being made available from the single capital pot. The enforced sale procedure is a relatively straightforward legal process.
- 2.5 Many Local Authorities are now using the enforced sale procedures as a tool to recoup outstanding charges registered as a Local Land Charge against properties. All costs incurred with interest accrued are recoverable using this procedure, which experience from other Local Authorities indicates takes an average 9 months to complete.
- 2.6 Using the Law of Property Act 1925, Section 101, and the Land Charges Act 1975, Section 7, a financial charge takes effect as if it has been created by way of a deed charged by way of a legal mortgage. Section 36 of the Local Government Act 1974 further provides that where a Local Authority is empowered by statute to carry out works etc. they can recover their reasonable expenses from any relevant person.
- 2.7 Where an owner is known and substantially makes full payment, the charge is extinguished. Whilst this stops the enforced sale procedure, it does not prevent further action being commenced for non-payment of new charges.
- 2.8 It is proposed that properties are identified, processed and then auctioned to achieve best price. Once sold, debts and reasonable costs and charges can be recovered. Any surplus will then be reimbursed to the owner (or sent to any other person entitled to the surplus) if they are known. If the Owner is not known the monies will be paid into Court in accordance with Section 63 of the Trustee Act 1925. However, if the monies are not claimed within a 12 year period, the Local Authority may retain it for "allocation".

Identification of Potential Properties

- 2.9 Clearly a system for identification and prioritisation of properties for taking action against is required. Only a limited number of properties at any particular time can be dealt with, taking into account resources. Prioritisation must be seen to be carried out in a fair and consistent manner.
- 2.10 In the majority of cases the Council is already aware of long-term, problematic empty properties. An initial assessment will need to take place to consider which of these properties are suitable for inclusion for enforced sale. Newly identified properties that are eligible may also be referred for inclusion into the scheme.

Prioritisation of Properties for Enforced Sales Procedure

- 2.11 Following the initial assessment, all properties will be risk assessed in accordance with Empty Property Risk Assessment (see Appendix A). The

higher the score produced, the higher the priority for action in relation to the property. The risk assessments will be reviewed annually, or on receipt of significant information which would affect their priority rating.

3.0 Details of Consultation

3.1 Legal/Finance Services have been consulted and their comments incorporated into the report.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: Adopt enforced sales procedure	Option 2: Do not adopt enforced sales procedure
Advantages	Will bring long term empty properties back into use. Help regenerate the area, provide accommodation and recoup outstanding debts. It signals the council's commitment to addressing the empty property issues.	None. Officer time will be relocated to other projects
Disadvantages	There will be some additional burden on the authority's legal resources	These properties will continue to deteriorate, be detrimental to the community, may detract from private investment and will be a waste of a valuable asset.
Risks	Risk of bad publicity if the process is not managed correctly.	These dilapidated properties will continue to have an adverse effect on the area they are located in.

5.0 Officer Preferred Option (and comments)

5.1 Option 1 is the officer preferred option because it will remove and/or regenerate long term empty properties, provide valuable accommodation, recoup outstanding debts and indicate the council's commitment to addressing the empty property issue.

6.0 Conclusion

6.1 The use of the Enforced Sale Procedure should be seen as a last resort. It is expected that all informal and formal action will have been taken and exhausted by the Council in order to resolve the existence of the empty dilapidated property and its associated problems.

6.2 The Council is committed to carrying out its duties in a fair and consistent manner. This policy will be applied having regard to the council's Public Protection Enforcement Policy and the Enforcement Concordat in the regulation of private sector housing.

RELATIONSHIP TO POLICY FRAMEWORK

Bringing empty properties back into use is one of the key actions in delivering the council's health and well being priorities as set out in the Corporate Plan

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Consideration of the provisions of the Human Rights Act 1998 and the Equality Act 2010 must be taken into account by the Council. A statement that the intended action of the Council is exercising its power of sale is considered proportionate, in accordance with the Human Rights Act, will be included within the Enforced Sales Procedure itself. Bringing empty properties back into beneficial use has significant community safety and sustainability benefits.

LEGAL IMPLICATIONS

Legal Services will have to be involved in the ESP. It will be important to ensure that the Council has the statutory right to enforce the charge and to this end each individual case will have to be considered on its own merits.

FINANCIAL IMPLICATIONS

Financial implications are set out in detail in the main body of the report.

OTHER RESOURCE IMPLICATIONS

Human Resources: None

Information Services: None

Property: There are no direct impacts arising from the introduction of this procedure. Property Services will provide advice and assistance when required.

Open Spaces: None

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has been consulted and would add that in due course, Members will be asked to consider whether they wish to make changes to the existing council tax exemptions regarding empty properties. Such proposals may also help to bring such properties back into use.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Law of Property Act 1925, Land Charges Act 1975, Housing Act 1985, Human Rights Act 1998

Contact Officer: Paul Broadley
Telephone: 01524 582691
E-mail: pbroadley@lancaster.gov.uk
Ref:

LANCASTER CITY COUNCIL

ENFORCED SALES PROCEDURE (ESP)

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Appendices

Appendix 1- Charges Form

Appendix 2 - Flowchart

Purpose/ Scope

The purpose of this guidance is to explain the Council's policy on the Enforced Sales Procedure (ESP). When used, the ESP recoups outstanding land charge debts owed to the Authority along with bringing empty rundown properties back into use.

1. Policy Background

All areas of the country suffer from the effect of vacant dilapidated buildings. Rundown empty properties blight our cities and attract anti-social behaviour.

The Authority's district wide aim is to promote our city, coast and countryside. In doing so we will achieve lasting opportunities for all in a safe and healthy district that is proud of its natural and cultural assets.

LCC's Regeneration Strategy 2010 brings flesh to the bones of the district's wide aim. It identifies that *"the key challenges for stakeholders in the District are to provide a sustainable District to meet the needs of a growing population, to maintain and improve the quality of life, and to spread the benefits of economic growth to area of deprivation and exclusion"*.

To maintain and improve the quality of life within the District it is necessary to deal with abandoned rundown empty properties. Bringing properties back into use, or into a state of reasonable repair will reduce crime, will promote wellbeing and greater economic stability within the district.

Briefly, the ESP is a process by which the Council may bring about the sale of a privately owned house where it has had to incur the expense of having to take some statutory based action to deal with a property and where the owner has failed to repay this expense.

The powers as to the use of the ESP are statute based. Where a statute confers the necessary rights, a local authority can either recover the expenses incurred through the debt recovery process or by charging the legal title(s) of a property with the debt and then selling it to recover the debt.

The ESP procedure will ensure that the owner brings the property into proper repair. It is hoped that a property owner, with the means to keep his or property in a state of repair, will not want to allow the Council to sell his or her property. Thus, the potential of the ESP being followed should ensure compliance with statutory notices or payment of expense incurred via statutory provision.

In the event that a property owner, having knowledge of the Council's ESP procedure, does not pay the sum incurred under statutory provision then the Council will be entitled to sell the property under the ESP.

In these circumstances it is hoped that the new owner will be more willing and able to invest in the property and ensure its likely re-occupation, upkeep and proper use.

2. Benefits of Adopting the Enforced Sales Procedure

Social Benefits

By selling a property that is in a derelict condition to a new owner, there is a strong possibility that it will become inhabited after being refurbished.

Financial Benefits

Financial charges, which could otherwise prove impossible to recover, can be discharged out of the proceeds of sale.

The property being sold can bring about the payment of the debt by the owner/mortgagee.

Good Housekeeping

Owners of empty properties become aware of the authority's initiative and as a result may in the future discharge debts more readily, carry out works pursuant to statutory notices served and keep their properties in a reasonable state. Less time is then spent by the authority to deal with such problems.

3. Legislative basis for ESP

This section provides a brief summary of the legal basis, which allows the Council to use ESP. It is provided for information purposes for staff. In the main, these legal processes are carried out by Legal Services.

The basis for using ESP the existence of an unpaid financial Charge registered in Part 2 of the Local Land Charges Register¹. This, together with the primary legalisation, gives a Local Authority the power to enforce a financial Charge.

Section 7 of the Local Land Charges Act 1975, provides that a financial Local Land Charge takes effect, as if it had been created by a Deed of Charge within the meaning of the Law of Property Act 1925. Consequently, the Council has all the powers and remedies available to a mortgagee under the Law of Property Act 1925 with regard to Part 2 Charges.

Section 101(i) of the Law of Property Act 1925, confers on a mortgagee a power of sale. An Order of the Court is not necessary as the legislation itself provides that power.

Section 87(1) of the Law of Property Act 1925, confers a right of possession. In addition, many of the statutes used by the Council, which result in carrying out Work in Default, give to the Council a power of sale and right of priority over other Charges.

¹ Section 1 (1) and (2) of the Local Land Charges Act 1975 defines a local land charge. Specifically, S 1 (2) states that any sum which is recoverable from successive owners or occupiers of land in respect of which the sum is recoverable shall be treated as a charge. These charges are defined as financial charges registrable in Part 2 Charges (see Rule 2 (2) and 3 of The Local Land Charges Rules 1977).

For example, Section 291 of the Public Health Act 1936 and Section 107 of the Building Act 1984 provides that the expenses and interest 'accrued due thereon shall, until recovered, be a charge on the premises and on all estates and interest therein'. This means that all other charges on the estate take subject to the Council's land charge.

This is important, as it allows the Council to take its money from the proceeds of sale before any other person.

However, this is not the case with all statutory charges. For example, section 81 – 81A of the Environmental Protection Act 1990 does not provide that the charge will take preference over all other estates and interests therein.

Hence, if the statutory power under which the debt has arisen **does not**:

- a. Confer a charge on all the estates and interests in the property; and
- b. Confer Law of Property rights

Then it will be necessary to consider whether section 7 of the Local Land Charges Act 1975 applies. If it does, then the procedure may still be used. However, only the owner's estate will be bound, not all the estates and interests in the property. Hence, other charges may therefore take priority over the Council's charge and it will be necessary to ascertain whether there is sufficient equity in the property before embarking on the ESP.

Local Land charges are classified as overriding interests in land pursuant to schedule 2 and 3 of the Regeneration of Land Act 2002. As such these charges will take priority over other 'registered' charges entered after the creation of the Financial Land Charge.

The Legal Process

The first step in pursuing the legal process for ESP is to serve a notice under Section 103(i) of the Law of Property Act 1925. The Council may not exercise the power of sale unless and until this Notice (requiring payment of the mortgage money) has been given, and a default of payment has been made for 3 months after the service of the notice.

The Council must write to the Owner(s) stating that it intends to carry out the ESP in relation to the unpaid financial charge.

The Council must also write to any other Chargees similarly. If another Chargees should pay the outstanding money this prevents (if applicable) the Council taking priority over their charge.

If at any stage prior to the actual sale of the property, the Owner should pay the outstanding debt. Then the ESP is no longer an option.

Once default of payment is apparent, the Council can apply to the Land Registry for registration of the charge, claiming priority over all other charges (if applicable).

When the charge certificate is returned from Land Registry, the property can be marketed

for sale. It is good practice to send another letter to the Owner and any Chargees to warn them again that the charge is to be enforced.

4. Human Rights Act 1998

Consideration of the provisions of the Human Rights Act 1998 must be taken by the Council. In particular, Part 1, Article 8 “the right to respect for... private and family life..., home and... correspondence”, and Protocol 1, Article 1 “peaceful enjoyment of... possessions”, need to be balanced against the general benefits and rights of neighbours and the surrounding community.

Each case should be judged on its own merits. It will be important that the rights of those affected by the property are properly weighted and considered.

An officer’s note should be placed on both the instructing service and legal services file stating that the rights of those connected to the property have been considered, what facts were considered, and why it is considered proportionate that the council should use its power of sale.

If it is found not to be proportionate then officers should consider what further or other steps (if any) should be taken to deal with the debt owed.

If the matter is to proceed, a statement that the intended action of the Council in exercising its power of sale is considered to be proportionate, in accordance with the Human Rights Act, should be included in letters to the Owner and Charges. This will be covered by correspondence issued by Legal Services.

5. Enforced Sales Procedure – The Empty Property Team’s Role

A. Identifying Potential Properties for ESP

Vacant private properties can be identified in a number of ways. For example:

- Council Tax information;
- Empty Property Officers, other Council Officers, Elected Members;
- Neighbours and general public;
- Electoral Register;
- Historical Information on files and databases.
- Visiting the property

To check if a vacant property is potentially one that could be the subject of ESP, the following needs to be checked:

1. Land Registry registration. This is most easily done on-line via <http://www.landreg.gov.uk>;
2. Debt. The Property File will contain details of Works in Default, and will contain the Sundry Account Number of any Land Charge Debts.

Remember to consider if other departments have outstanding debts on the property, and to take those into account as well. In particular, Planning, Building Control, Environmental Services and Highways may have taken action leading to work being carried out in default and a debt then being created.

The use of these powers is available, where the statutory provisions permit, for the recovery of debts on a property which are identified and put forward subject to the following 7 checks being carried out. These are as follows:

- A property must be a residential dwelling;
- Must be vacant;
- Be registered with land registry;
- Have financial local land charges registered against it.
- The property is not subject to any insolvency or bankruptcy proceedings.
- The statutory notices have been served correctly
- There should be no proposed CPO action within a 2 year period

If the title to the property has not been registered at the Land Registry, and the Council is not aware of the identity of the owner(s), then the following investigations are carried out;

- The Council's electoral register;
- Council tax records;
- Enquiry of the adjoining house owners.

B. Priority and Criteria

Lancaster City Council's criteria for using the ESP are;

- The total debt on the property should exceed £1,500.00;
- The property is vacant;
- Not in a CPO area;

- Legal Services considers that the debt is unlikely to be recovered via other debt recovery procedures (for example, attachment of earnings, bankruptcy proceedings etc).

However, if a vacant property is causing a great problem where the debt is below £1,500.00 and the owner cannot be traced or is refusing to co- corporate the use of this procedure could be considered.

C. Can the authority use the Procedure?

- The primary consideration is whether the statutes pursuant to which default works were carried out confer the necessary rights and powers;
- If the statute(s) confer a charge on all the estates and interests in the property concerned and also confer Law of Property rights in regard thereto (i.e. grant the powers and remedies available as if the charge had been created by Deed) then the procedure may be used and the charge will bind any **prior** charges affecting the property;
- If the statute(s) do not confer such rights it will be necessary to consider whether Section 7 of the Local Land Charges Act 1975 applies.

If section 7 of the Local Land Charges Act 1975 does apply, the procedure may still be used but only the estate of the owner will be bound, not all the estates and interests in the property. The existence of any prior charges and the quality of the offending party's title are major considerations when deciding whether to use the procedure in such circumstances. If none of the above apply, then the procedure cannot be used and consideration should be given to pursuing the matter via the debt recovery process or via Compulsory Purchase Order.

D. Pre-action to ESP

Consideration of other, more appropriate, types of action, must always be a prior consideration before pursuing ESP.

The use of ESP should be seen as a means of last resort. It is expected that all informal and formal actions will have been taken and exhausted by the Council in order to resolve the existence of a dilapidated residential dwelling.

The first steps will be to trace and contact an Owner, if this is not already known. To this end, the following suggestions may usefully assist:

- Serving Local government (Misc. Provs) Act Sec 16 Notices;
- Land Registry (On Line Service);
- Empty Property FLARE Database;
- Neighbours;
- Council Tax (last payer);
- Property files;

- Other Council departments and agencies.

Once an Owner is identified, they should be contacted in order to offer advice, clarify the problems the property poses, and discuss and offer potential solutions. This may include:

- Voluntary Sale or Leasing, either privately, or to an interested RSL;
- Consequences of “letting the property go”, including its market value depreciation;
- Effects on the neighborhoods;
- Loan or Renovation Grant availability to repair the property;
- Advice about letting and becoming a landlord;
- Contacting relatives or others who may be able to assist.

The appropriateness and emphasis to be given to such factors, and others, will very much depend on each individual case. The Empty Property Officers assessment of the Owner’s attitude and capability will also strongly influence tactics.

Officers should not offer or give financial advice, but should suggest that the Owner seeks independent advice with regard to the various options discussed.

Vulnerable persons

If the Owner appears, or is known to be, vulnerable or disadvantaged then officers should consider whether other agencies could assist in the case. Contact should be made with Lancashire Social Services in order to ascertain whether the person is under a social worker or whether an adult assessment of the Owner could be undertaken pursuant to section 47 of the Health and Community Care Act 1990.

Officers should also carefully consider the impact of using the ESP procedure and whether there are any other steps they could take to mitigate the effect of using the ESP method or whether the ESP approach is necessary and proportionate in the circumstances.

Due regard should be had to the Council’s obligations under the Equality Act 2010 and a record of due consideration should be kept on file if the Act is applicable.

Other Departments and organisations

Liaison with other departments and agencies, particularly those with an enforcement of financial role, should also be considered, together with any other legitimate means to put pressure on the Owner to deal with the property. For example:

- Other Departments’ enforcement actions (especially Planning, Building control and Highways);
- Exemptions or relaxations for Council Tax payment should be reconsidered;
- Debt Recovery processes should be actively chased;
- Involvement of mortgage lenders if property mortgaged (e.g. breach of occupation conditions, validity of buildings insurance policy).

Furthermore, if the owner cannot be located, contact should be made with both the prison

and the National Health Services. They should be asked whether they have any record of the Owner. If the Owner is detained at her majesty's pleasure or is detained under the Mental Health legalisation, then offices should ascertain the addresses and persons to whom letters or ultimately notices under the ESP can be sent to.

E. Property File

The property file is produced by copying;

- All statutory notices served prior to the Council carrying out the necessary works in default together with the details as to how the notices were served;
- The record of service of notice form;
- The work instructions to the contractor for the work to be carried out;
- All invoices from the contractors along with breakdown of labour and material charges.
- All correspondence sent and telephone messages un/taken by LCC or received from the owner.

A file summary sheet is produced which includes what is on the file, the notice number and the amount of financial charge in each case. The file will also include copies of any ownership details, local land charge details and any correspondence sent or received relevant to the property.

F. Re-service of Notices

Legal Services will carry this out in conjunction with the Empty Property Officer. All notices originally served and notices of demand of payment are re-served on the property together with a covering letter demanding payment (comprising of a Letter before EPS Action).

This will ensure that an owner or interested party is made aware of the debt and also ensures that there is adequate evidence available. Furthermore it will ensure that any notices that need to be served under Section 81A Environmental Act 1990 are served.

Copies are taken of all the original notices served and then served on the property by hand, and also sent by first class post to the listed owner and any other interested party of which the Council is aware.

After a period of 28 days if no appeal (as to the section 81A notice) or payment is made, a notice pursuant to Section 103 of the Law of Property Act is then served. This notice allows the owner 3 months to repay the debt, the property cannot be sold until the Section 103 notice has expired, but during this time the procedure is progressed through the various stages as far as possible.

The Section 103 Notices are divided into 2 categories;

- Where notices pursuant to Environmental Protection Act 1990 have been served;
- Where no notices pursuant to Environmental Protection Act 1990 have been served.

When serving the notices, a photograph is taken of the property and copies of all the notices served and confirmation of the method of service are attached to the property file and onto the Flare database.

A memorandum is sent to Financial and Legal Services to:

- Suspend all legal action regarding the debt;
- Check the account numbers of the outstanding debts to ensure no payments have been received to date.

6. Enforced Sales Procedure: Legal Service's Role (From receiving instructions to the registration of charge). When the property is registered at HM Land Registry

Are the charges still outstanding?

The first step taken upon receipt of the file is to go through the Default Works file making a list of all the charges, a check is then carried out to find out which charges are still outstanding. (**Appendix 1**).

This is done as there are so many ways debts can be paid and there is little point in undertaking work where a charge has been repaid.

Write to all interested parties

If charges are still outstanding, a letter is sent to all persons on the register who have an interest in the property advising them of the position.

By doing so, the owner and any other interested party is given fair notice of the steps the Council proposes to take. It is accepted that in most cases the whereabouts of the owner will be unknown. Even so a letter addressed to the property and any other address(s) is sent in an attempt to notify the owner. Every attempt is made to give such persons notice of LCC's proposals and ample opportunity to repay the debt.

A period of 28 days is allowed for the persons served to respond.

If debt has been repaid, the council will seek alternative course of action (if necessary).

Have the Statutory Notices been validly served?

A check should be made that statutory notices have been correctly served. Once the investigations in the above paragraphs have been completed and there has been no reply to any letters sent, the property is put forward to sale

7. Enforced Sales Procedure - Selling the empty property in association with Property Services.

A. Methods of selling the property

Auction Sale

Whatever the preferred method of sale, the same rules apply to a sale under the ESP as to any other sale of a property by a mortgagee.

Auction or sealed offers with a guide price will be considered to be the most expedient method of disposal and generally a mortgagee can accept the highest bid for a property described and advertised in a properly published auction. This will be in conjunction with the Corporate Property Section.

Valuation

Whatever the method of sale, a valuation is undertaken by the Local Authority's appointed valuer or by Property Services.

B. Contract

Registered Property

The contract for sale will be the same as any contract for sale by mortgagee.

Unregistered Property

There will probably be no deeds or details of any in cumbrances affecting the property and the contract for sale need to reflect this. On completion of sale the Land Registry require the Council to provide a letter containing a certification that they have the necessary rights and powers to dispose of the property.

C. Title

Where the title deeds have not been recovered the following should be borne in mind.

Registered Title

Copies of the document referred to on the title can be obtained from Land Registry. Where they are not available, include an appropriate clause in the contract to cover the position.

Unregistered Title

There would probably be no deeds or details of the encumbrances affecting the property.

Are the charges still outstanding?

Prior to auction/exchange of contracts, a further check is made to ascertain whether the charges have been repaid.

D. Post Sale

The position is similar to an ordinary sale by a mortgagee. A broad simplified overview is set out below. However, the distribution of the sale proceeds can be complicated by prior and subsequent encumbrancers.

Generally, the cost of selling the property and debts are deducted from the proceeds of the sale. If the debts are greater than the proceeds of the sale, then officers are to consider whether the fees are to have first call on the proceeds or not.

The auctioneer's fees would have to be paid in all events.

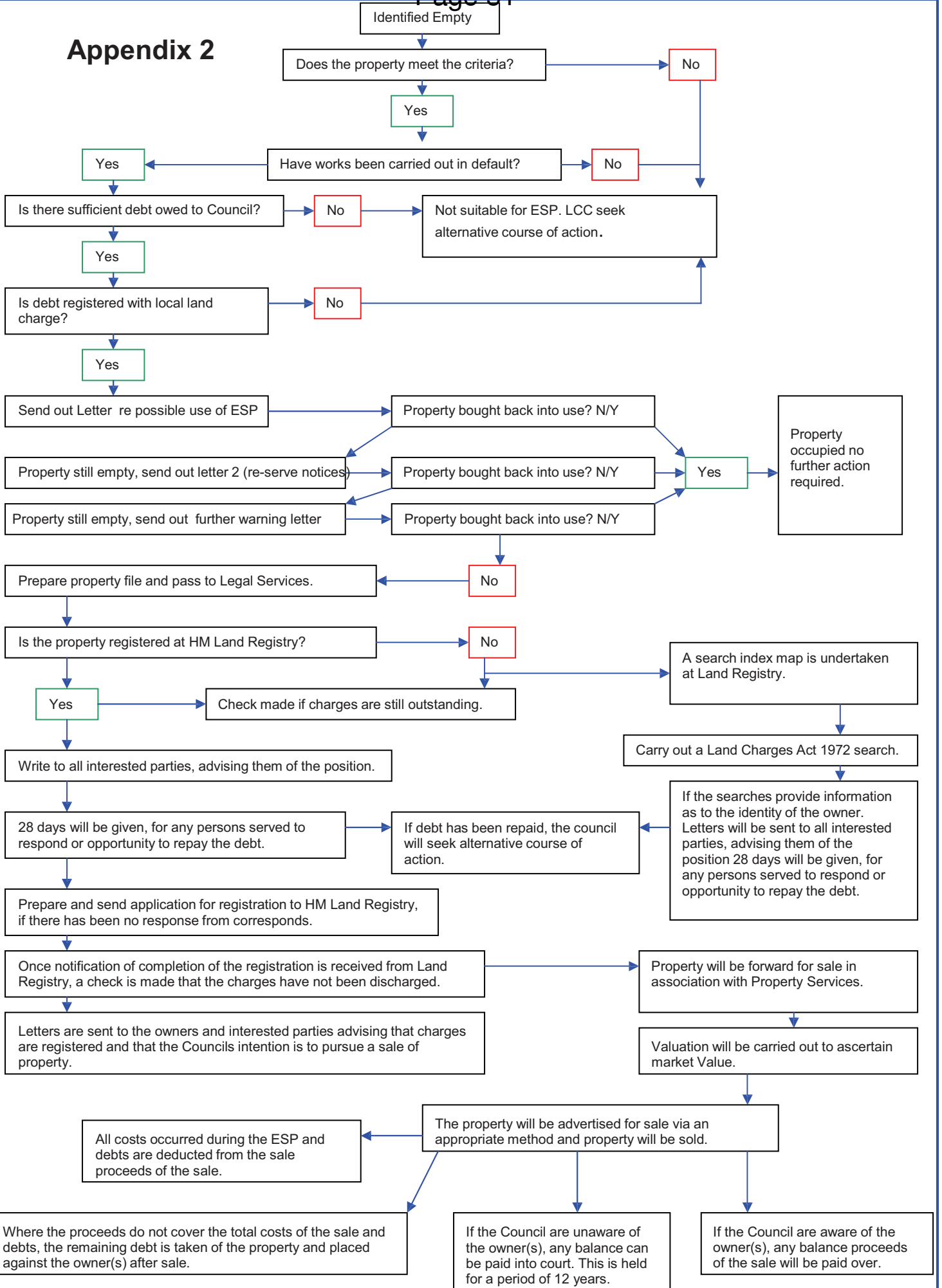
Where the proceeds do not cover the total costs of the sale and the outstanding debt (including interest), the remaining debt is taken off the property and placed against the owner after the sale. This then takes the form of a personal debt.

If there are any balance proceeds of the sale, and if the Council is aware of the owner(s) whereabouts, the balance is paid over in the usual way (see s 105 of the Law of Property Act 1925). This is providing there are not any other encumbrancers entitled to any of the proceedings following the Council's payment of fees and debt.

If there is another encumbrancer then the surplus (in full) should be passed to the next encumbrancer (see s 107 of the Law of Property Act 1925).

If the whereabouts of the owner is unknown, the money can be paid into court under section 63 of the Trustee Act 1925 (see also The Chancery Guide [CHG 25.13]). The money can be held against the property in an interest bearing account. This is held for a period of 12 years (see the Limitation Act 1980); thereafter the Council is free to allocate such money as it pleases.

Appendix 2



PRIVATE SECTOR HOUSING - ENFORCED SALE PROCEDURE
EMPTY PROPERTY RISK ASSESSMENT PROTOCOL

1. Is the house situated within a Housing Renewal or Regeneration area?

NO 0 points
YES 20 points

2. How long has the property been empty?

6 months → 12 months 0 points
12 months → 3 years 5 points
3 years + → 5 years 10 points
5 years + 20 points

3. Does the current condition of the property impact on adjacent properties, resulting in disrepair/dampness and possible risk to health and safety of public or adjacent occupiers?

No 0
Minor 5
Medium 10
Major 20

Minor - Slight disrepair

Medium - More serious defects resulting in category 2 hazard

Major - Serious defects resulting in category 1 hazard

4. Is the property a source of verminous pests?

No 0
Minor 5
Medium 10
Major 20

Minor - Likely presence of vermin in the property, not yet clearly evidenced.

Medium - Some visual evidence of vermin particularly rats or mice, possibly affecting neighbours.

Major - Clear and repeated evidence of vermin affecting neighbours.

5. Does the property have gardens which are untended and unsightly?

No 0
Minor 5
Medium 10
Major 20

- Medium - Ground floor windows boarded up on the front, in view from the street, small amount of graffiti on the front fence. Serious dilapidation round the back, but only visible from one property at the rear. Other houses are generally in better condition.
- Major - Several windows to front and rear broken, collapsed fence panels, all visible from front street and rear access road. Most other houses are reasonably well maintained, although a few have fences in need of repair.

9. Number of complaints received about the property?

None	0
Isolated < 5	5
Isolated > 10	10
Multiple/frequent	20

10. How many Statutory Notices been served concerning this property?

Single notice not in last 12 months	5
Single notice in last 12 months	10
Multiple notices	20

11. Work in Default or Prosecution Action carried out?

Single action not in last 12 months	5
Single action in last 12 months	10
Multiple action	20

12. What is the amount of outstanding debt registered against the property?

< £200	0
£200 > £500	5
£500 > £1000	10
£1000 +	20

CABINET

**Proposed Introduction of Fees for Pre-Planning Application and Householder Development Advice
24 July 2012**

Report of the Head of Regeneration and Policy

PURPOSE OF REPORT			
To seek to introduce fees for currently free, householder development advice and pre-planning application advice.			
Key Decision	X	Non-Key Decision	
		Referral from Cabinet Member	
Date Included in Forward Plan		July 2012	
This report is public			

RECOMMENDATIONS OF COUNCILLOR HANSON

- (1) That the principle of charging for householder development advice and pre-planning application advice be agreed.
- (2) That responsibility for determining the precise fees in each case each year is delegated to Cabinet, working in conjunction with Financial Services and that the General Fund Revenue Budget is updated to reflect the estimated additional income for 2012/13 during the Revised Budget process.
- (3) That future years' fees are incorporated into the council's Fees and Charges policy for review thereafter as part of the annual budget and planning process, taking into account service demands.

1.0 Introduction

- 1.1 This report provides information regarding service activities which are in high demand but which the Development Management Team currently provides free of charge. This is in contrast to the core work of determining planning applications, which is fee-earning.
- 1.2 Two of these activities, namely the provision of householder development advice and the provision of pre-planning application advice, are service areas where fees have been recently introduced by other local planning authorities,

and this report seeks support for the principle of introducing fees for these two service activities.

- 1.3 Nationally, local planning authorities are encouraged to pursue joint working with applicants, consultees and residents at the pre-application stage to attempt to resolve any problems that may occur during the planning application. Pre-application advice has always been in high demand but with greater encouragement from the Government, it is a service area which is becoming increasingly important, and as such the current methods of service delivery and the current staffing capacity able to deliver the service are relevant issues.
- 1.4 This comes at a time when many Councils, including the City Council, have reduced staff in their Development Management functions because of reduced fee income. If the economic climate eventually improves, higher demands for Officer time will not be accommodated easily.

2.0 Legislation and Case Examples

- 2.1 The Government and its Planning Advisory Service have confirmed that fees for pre-planning application advice can be appropriately levied by local planning authorities, and legislation is in place to support this. The Local Government Act 2003 gave local authorities a discretionary power to charge for providing pre-planning application advice. Westminster District Council was one of the first authorities (June 2004) to undertake a charging regime for some of its discretionary activities, including pre-planning application advice.
- 2.2 Since then the Government's Killian Pretty Review (November 2008) has recommended that local planning authorities "*...should take steps to substantially improve the critically-important pre-application stage of the application process, in order to improve the quality of the application and to avoid problems and delays at later stages*". The Local Government Association have previously written to Government (September 2010) to offer their support for decentralised planning, advocating Councils having freedom "*to charge appropriate local fees to support an effective planning service*".
- 2.3 Initially interest in pre-application charging was confined to south-east England. However in recent years the practice has become more widespread as local planning authorities adapt to an increased demand for quality planning services in a challenging economic environment.
- 2.4 Within Lancashire, the following authorities currently operate a Charging Regime for pre-application advice:
- Blackpool
 - Blackburn with Darwen
 - Chorley
 - Hyndburn
 - Pendle
 - Preston

- Ribble Valley
- South Ribble
- West Lancashire
- Wyre

In most of these authorities, the practice of fee charging commenced in 2010-2011. The fees levied are determined on the type of application (e.g. major development, householder development, etc) and in the majority of cases are reviewed annually.

3.0 Proposal Details

3.1 The proposed introduction of fees referred to in this report should not be confused with the national planning application fee regime which stipulates the level of fee that should accompany the many different types of planning application. Whilst there are current Government proposals to devolve responsibility for planning application fee-setting to local authorities, the Government's timescale for the introduction of this proposal has slipped, and so at the present time the national planning application fee system remains in place and this is unaltered by the proposals contained in this report.

3.2 However there are a number of related Development Management-related activities that currently do not incur a fee. These are:

- (i) Enforcement Investigations;
- (ii) Tree and Hedgerow Enquiries;
- (iii) Householder (Questionnaire) Development Advice; and,
- (iv) Pre-Planning Application Advice.

Enforcement

3.3 As part of its review of planning fees, the Government has stated that planning enforcement (i.e. the investigation of alleged breaches of planning control, which are highly-specialised and time-consuming) would not be a fee-bearing activity, and so there are no proposals to introduce local or national fees for this service area.

Trees and Hedgerow Advice

3.4 The Development Management Team currently responds to many enquiries regarding trees and hedgerows. These can include the investigation of alleged unauthorised work to protected specimens; the making of new Tree Preservation Orders; and the consideration of any applications for work to protected trees or hedges.

3.5 Whilst local planning authorities are not discounted from charging for this type of work, it is considered that the introduction of charges would lead to an increase in unauthorised tree/hedgerow works, including specimen removals. Unlike unauthorised built development, which ultimately can often be

remedied via the use of enforcement methods, the loss of trees, particularly any specimens that are protected by Tree Preservation Order status or protected by virtue of their location within a Conservation Area, cannot usually be satisfactorily ameliorated for many years to come, due to the length of time it would take a compensatory specimen to grow.

- 3.6 It is for this reason that the introduction of fees for tree and hedgerow-related work is regarded as inappropriate and counter-productive to the Council's district-wide aim to protect and promote our natural assets.

Householder Development Advice (Householder Questionnaire)

- 3.7 Domestic properties have recently benefitted from an extended range of 'Permitted Development' (PD) rights, meaning that homeowners or occupants can carry out more works without the need to apply for planning permission. Advice regarding PD rights is currently available on the Council's website and also via the Government's Planning Portal, free of charge, albeit in a generalised format.
- 3.8 Notwithstanding the availability of this advice, householders often prefer to have the comfort of a written letter from the local planning authority, giving an informal view as to whether their building project requires the benefit of planning permission. To obtain this, they must fill out a Householder Questionnaire and provide a sketch plan for consideration. Again this is currently provided free of charge. This also has a financial and legal value for homeowners as evidence is now often required for mortgage and house purchase purposes, in the same way as evidence is required of any formal consents through the Land Charges system. Calculating whether a building project requires planning permission can be time-consuming due to the complexity of the national planning regulations and also any local land designations or previous planning permissions that may affect the property in question.
- 3.9 At the time of drafting this report six other Lancashire authorities have introduced fees for this service. Fees range from £30 up to £75, although the average fee is approximately £40. Given the extent of work and time involved in responding to Householder Questionnaires and the value that the Council's written response has for the householder, and taking into account the wide availability of free online advice, it is now considered reasonable to levy a fee for undertaking formal householder advice requests.

Pre-Planning Application Advice

- 3.10 Pre-planning application advice differs from householder development advice. The latter indicates whether planning permission is required. The former is a more qualitative judgement, indicating whether planning permission for a development project is likely to be granted or refused. This view would typically be provided by a Planning Officer and is qualified as a professional opinion which is not binding on the Council's formal decision-making function.
- 3.11 In addition, the nature of pre-planning application advice is evolving. The

transition from the traditional 'Development Control' regime to the Government's preferred 'Development Management' system is more resource-intensive. Development Management work starts much earlier than the submission of a planning application and continues beyond the issue of the planning decision. A key facet is the use of more collaborative ways of working, with applicants, developers, agents, consultees and residents to ensure a more responsive and direct approach to planning application submission, consideration and decision-making. This is often referred to as a 'Development Team' approach.

3.12 Many neighbouring local planning authorities have introduced fees for providing written pre-planning application advice, ranging from householder proposals to major, strategic developments. At the time of drafting this report only three Lancashire authorities, including Lancaster, do not levy fees for all or part of this service. Within the County boundaries, Pre-Planning Application Advice fees range between the following:

- Householder development: £Free - £50;
- Non-major, non-householder development: £50 - £300;
- Major development: £300 - £500 (with fees incurred for follow-up meetings where necessary on a 'per meeting' basis or hourly rate); and,
- Major, strategic development: £300 - £1000 (with fees incurred for follow-up meetings where necessary on a 'per meeting' basis or hourly rate).

3.13 There has never been any statistical recording of the number of pre-planning application requests received, due to the informal and cost-free nature of the Council's response. Since the restructure of the Service in April 2010, and the loss of three Senior Officer posts, the Development Management Team has had to restrict access to some pre-planning advice due to the reduction in the number of Planning Officers.

3.14 However, the recent commitment to funding a Temporary Major Applications Officer for 2 years from April 2012 and the continued financial commitment to retaining a Temporary Planning Assistant for a further period of 12 months (currently expiring May 2013) has assisted in alleviating the current caseload pressure for Planning Officers, which continues to exceed suggested national figures. These previously-agreed additions to the establishment currently increase capacity, enabling the Development Management Service to introduce a more formal, chargeable pre-planning application advice scheme with the specific aims of securing fee income to help maintain a healthier establishment.

3.15 Whilst the introduction of fees is considered necessary to improve the current pre-application process, it is also recognised that the introduction of fees will have an impact upon the number of requests received. It may dissuade potential applicants from making a request, or the service may be popular due to the collaborative elements referred to in paragraph 3.11.

Setting the Fees

- 3.16 If it is resolved to introduce charging for these activities, then the precise level of fee would be determined following a timesheeting exercise within the Development Management Service, to quantify the amount of time being spent on householder development advice and pre-planning application activities and to ensure wherever possible that the cost of service provision is recovered. It is anticipated that a flat fee would be introduced for the householder development advice response, and that fees for pre-planning application advice would be determined by the type of development involved (i.e. whether it falls within the nationally-defined ‘major’ or ‘minor’ categories) and/or the amount of floorspace that is the subject of the enquiry.
- 3.17 A Charging Scheme Charter would then be introduced explaining the necessary requirements (for householders, applicants and developers) and standards of service (for Officers). The level of fees would thereafter be incorporated into the council’s Fees and Charges policy and reviewed as part of the annual budget process, whilst taking into account service demands.

4.0 Details of Consultation

- 4.1 There has been no formal consultation although discussion has occurred with other local planning authorities within the county. The matter has also been informally raised at a ‘Meet the Planners’ event with local planning agents and architects chaired by the Lancaster Chamber of Commerce.
- 4.2 Some planning agents and architects have advised the Development Management Team (within the last six months) that they would be more willing to pay for planning advice as a method of obtaining a guaranteed, written, pre-application assessment of their client’s proposals.

5.0 Options and Options Analysis (including risk assessment)

	Option 1: To introduce charges for both Householder Questionnaire Advice and Pre-Application Advice	Option 2: To introduce a charge solely for Householder Questionnaire Advice	Option 3: To introduce a charge solely for Pre-Application Advice	Option 4: To not introduce charges for either activity
Advantages	This would allow for a more formal and transparent process to the	This would allow a fee to be levied for permitted development enquiries	This would require a new, formal and transparent process to responding to pre-application	No advantages to the Service. Although the activities would remain free of charge to the

	pre-planning application regimes and would provide added certainty for developers pursuing development projects. It would also provide an income stream based on cost recovery which aims to cover the cost of service demands.	which are time-consuming and are not a statutory function, also providing an income stream which could potentially support existing service provision for this element.	enquiries which would assist Officers and would provide added certainty for developers pursuing their development projects. Again this could provide an income stream which could potentially support existing service provision for this element.	user, this free service would need to continue to be limited and this is unlikely to provide any improvements in service provision.
Disadvantages	The new system could potentially be more resource-intensive than the current informal system, dependent upon developer interest. The introduction of fees for Householder Development advice may be off-putting to some householders, who may choose to continue with a development project irrespective of whether they require permission or not (although with lenders often demanding evidence of PD rights this is unlikely).	The introduction of fees for Householder Development advice may be off-putting to some householders, who may choose to continue with a development project irrespective of whether they require permission or not. Introducing a fee for this service activity alone would not respond to the demand for pre-application advice from developers.	The new system could potentially be more resource-intensive, dependent upon developer interest.	This would not assist in addressing the capacity issues and ongoing modernisation of the Development Management Service.
Risks	The process would require	This is a service that is	The process would require	Service provision would

	annual review to be certain that staffing capacity and fee levels are commensurate with the service being offered.	currently provided free of charge and so it is anticipated that it would not result in an increase in workload which would create staffing capacity issues.	annual revision to be certain that staffing capacity and fee levels are commensurate with the service being offered.	continue in accordance with current priorities, with little capacity for pre-application discussions.
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4.1 The preferred option is Option 1. This would allow appropriate and commensurate fees to be levied regarding the existing Householder Questionnaire service and the proposed new Pre-Application Advice service.

6.0 Conclusion

5.1 The setting of fees for these activities would allow the Development Management Service to formalise its current arrangements. A formal, chargeable process would put greater onus upon applicants and developers to provide quality, written information to the Development Management Service at the earliest opportunity, thus allowing for a considered, formal, written response from Planning Officers. The clarity offered by the new arrangement would be a significant improvement to the quality of service.

5.2 The potential income stream arising from the introduction of charges could potentially be redirected to ensure that permanent staffing capacity remains commensurate with the service’s pre-planning application workload.

<p>RELATIONSHIP TO POLICY FRAMEWORK</p> <p>There is no direct relationship to the policy framework.</p>
<p>CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</p> <p>The proposals would improve the quality of service being offered to potential planning applicants and would lead to greater consideration of development proposals by all parties, thus resulting in a more transparent, usable and sustainable local planning system.</p>
<p>LEGAL IMPLICATIONS</p> <p>There are no direct legal implications arising from the proposal. Advice given at the pre-application stage would be caveated in such a way that it would represent an officer-level opinion and would not automatically guarantee a favourable planning decision.</p>

FINANCIAL IMPLICATIONS

The proposals have the potential to deliver a new income stream for the Regeneration & Planning Service, which in turn increases its ability to cover the cost of existing service provision. Although it is anticipated that implementation will be from 1st November 2012, the precise extent of fees to be charged during 2012/13 and therefore impact on the General Fund Revenue Budget have not yet been finalised, hence the request for Members to agree the proposals in principle for 2012/13 with the final decision delegated to the Head of Regeneration and Policy in conjunction with Financial Services. This will to some extent be determined following a timesheeting exercise to ensure that costs are proportionate to the time spent on delivering the service as well as being informed by the council's policy on fees and charges and service demands.

Future years' fees although delegated will be incorporated into the council's fees and charges policy for review thereafter as part of the annual budget and planning process, taking into account service demands. It should be noted however, that where fees are recovered on a cost recovery basis as will need to be the case here, fees are increased annually by inflation and adjusted to reflect changes in service demand. They are not set to maximise income but to ensure, where possible, that they recover the cost of the service provision and as such are limited by this. Specific statutory provisions can also apply, which prevent a surplus (or deficit) being made.

OTHER RESOURCE IMPLICATIONS**Human Resources:**

The proposed new arrangements could impact upon workload-ratio levels, depending upon 'take-up' of the pre-application planning service.

Information Services:

None.

Property:

None.

Open Spaces:

None.

SECTION 151 OFFICER'S COMMENTS

The S151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

None.

Contact Officer: Mark Cassidy
Telephone: 01524 582390
E-mail: mcassidy@lancaster.gov.uk
Ref:

CABINET

**Lancaster Business Improvement District (BID) Draft
Proposal
24th July 2012**

Report of Head of Regeneration & Planning Service

PURPOSE OF REPORT			
To provide information to enable a decision on endorsing the draft proposals for the Lancaster Business Improvement District, to enable progression to a ballot with the aim of formally establishing the BID. The report updates Members on potential pre- and post- ballot issues and resource implications in relation to the role of the city council in the BID development/implementation.			
Key Decision	<input checked="" type="checkbox"/>	Non-Key Decision	<input type="checkbox"/>
		Referral from Cabinet Member	<input type="checkbox"/>
Date Included in Forward Plan	12 July 2012		
This report is public			

RECOMMENDATIONS OF COUNCILLOR JANICE HANSON

- 1) The draft proposals for the Lancaster Business Improvement District (BID) are endorsed as being in compliance with statutory regulatory requirements.
- 2) Approval of Final BID Proposals and the issuing of instructions to proceed to ballot are delegated to the Chief Executive.
- 3) The content of the draft Operating Agreement (Appendix 3a) and subsidiary draft Baseline Agreement (Appendix 3b) is noted and final approval of the formal BID implementation framework is delegated to the Chief Executive.
- 4) The contents of the initial baseline statement (Appendix 4) are noted and approved for use in pre- ballot consultation and marketing alongside final BID Proposals.

1.0 Introduction

- 1.1 Cabinet considered a report on Business Improvement Districts (BIDs) in July 2011 which outlined the BID concept and highlighted potential implications for the council moving forward. Members were made aware of the ongoing work

by Lancaster District Chamber of Trade and Commerce (Lancaster Chamber) and officers following the council's allocation in 2010 of £80K resources to develop the BID concept in the District. Members resolved (minute reference 27):

- To support the intention of Lancaster District Chamber to lead on BID Proposal development in Lancaster city centre.
- To approve the allocation of £40K for Lancaster town centre BID development to the Lancaster Chamber via a formal funding agreement administered through the Regeneration & Policy service.
- To nominate the Regeneration Portfolio holder to sit on the Lancaster BID Steering Group.

1.2 Following the decision the Lancaster Chamber formed a broad Steering Group focusing on the following activities:

- Deciding the BID area and what improvements they want to make
- How the partnership will manage it and what it will cost
- How long it will last
- Consulting widely with business interests

The result of this work is the draft BID Proposal (or BID Delivery Plan) in Appendix 1. It is the final version of this document that is voted upon by those businesses that have to pay the levy. The Business Improvement Districts (England) Regulations 2004 instructs the BID proposer to notify the billing authority, the City Council, of its proposals and the billing authority must be content that the proposals address certain technical and policy issues outlined in the Regulations before it can give its necessary authority and instructions for a ballot to proceed.

1.3 This report outlines options and recommendations for endorsing the current draft and future final proposal for the Lancaster BID. Endorsement of the draft proposals by Members, and delegation of other necessary decisions, is required to allow efficient management of the balloting process and legal requirements. This report therefore provides feedback from officers in relation to the proposal's compliance with BID Regulations and with the city council's policy framework upon which the proposal may impact.

2.0 Proposal Details

2.1 The basic operational characteristics of BIDs were previously considered by Members in the July 2011 Cabinet report and are again summarised in the appended Draft Lancaster BID Proposal. In summary the Steering Group's proposal outlines the following:

- The two core themes: "Promoting Our City" and "Improving Our City"- along with a proposal for a Special Projects fund.
- The BID area - the majority of the Town Centre encompassed by the 'ring road' with some extensions, and including St George's Quay.
- The BID levy (1.5%), how it is calculated, collected and who is eligible to pay
- How the budget will pay for BID services.

- The BID governance, Board structure and representation.
- A ballot period initially scheduled between 19th November 2012 and close at 5pm on Thursday 13th December 2012.

The BID is scheduled to run for three years from 1 April 2013 until 31 March 2016.

2.2 Before it issues instructions for a ballot the billing authority should content itself that the final proposal:

- Covers the issues laid down in BID Regulation 4 and its associated Schedule 1 – the required information compliance.
- The proposal does not conflict with the billing authority's formally published policies. If the proposals do conflict the authority must notify the BID proposer or the BID body in writing, explaining the nature of the conflict

2.3 It is therefore appropriate to review the draft proposals at an early stage to agree their broad compliance and highlight any issues which need to be addressed prior to submission of the final proposal which will be a professionally desk top designed and formatted document. It will also be useful to agree an appropriate level of delegation to allow the ballot notification process and other issues to proceed without the need to align decisions with the Cabinet meeting cycle.

2.4 Appendix 2 highlights the officer view of the draft proposal's compliance with BID Regulations 4 and Schedule 1 and details some potential further information requirements or clarifications which may be required in the full proposal. Appendix 2 also highlights the policy fit – defined as the city council's published corporate policy framework.

3.0 Details of Consultation

3.1 The consultation process undertaken to date by the Lancaster BID Steering Group and the work to evidence and secure the support from local businesses has been extensive. It has included questionnaire surveys, general meetings and specific focus group events aimed at retail, commerce, night-time and tourism sectors.

3.2 Membership of the Steering Group itself includes representation from the local authority and large, medium and small businesses in the area. The Steering Group has been liaising directly with the lead officer from the Regeneration and Policy section who has acted as a conduit for consultation with the most relevant local authority officers.

3.3 Earlier drafts of the proposal document were discussed in detail between Steering Group and relevant officers. While not actively 'in conflict' with council policy proposals did impact on services' work areas where it was not clear whether the activities were fully compatible or supportive. In summary the areas which council/police wished to discuss in particular were as follows:

- The "Street Ambassador" proposals looked to assist in and around the PCSO work area needed to be reviewed in this context. PCSOs

are part of the council's established Community Safety Partnership approach with Police and others

- A number of physical interventions are proposed – officers were keen that any proposed intervention in the fabric of the town centre would be considered against Square Routes and Environmental Services plans.
- There was a clear wish from the Steering Group to enhance the events offer. The introduction of the Lancaster Events Forum and Safety Group means the council has an imperative to consider events proposals in the context of its work with these groups.
- Officers were keen that the proposals contributed to better co-ordination of local services and working in partnership with stakeholders.

3.4 Following discussion the BID Proposal was amended with the role of the Ambassadors / PCSOs clarified in the main body of the plan, reference included to working with the Events Forum. Also included is a paragraph about the BID manager potentially taking on a greater role in co-ordination of local services. Assurances were also received on the ongoing co-ordination of activity in implementation and delivery particularly around Square Routes and Environmental Services Plans.

3.5 It is considered that the Steering Group has consulted and engaged on a satisfactory level and will continue to do so through the pre- and post ballot stages and in development of the formal delivery arrangements.

4.0 Options and Options Analysis (including risk assessment)

4.1 The following options can be considered:

	Advantages	Disadvantages	Risks
Option 1: Do nothing	No advantages.	Loss of credibility with business community. No contribution to council's Corporate objectives.	Council may be in breach of statutory duties to support BID proposer as defined in BID legislation.
Option 2: Endorse the draft BID proposals reserving formal approval decision on Final Proposals to an appropriate delegated authority.	Gives early indication that the council believes the BID proposal will benefit the business community. Clear message to the business community that the direction of proposals to date is sound and final document is likely to be compatible with BID regulations and council policy. Allows for scrutiny of final proposals to ensure clarifications and changes are compatible with BID Regulations and policy framework. Allows the Steering Group to develop its pre-election	Reputational implications for council and other statutory services of "committing" to a baseline service provision over BID lifetime, even though this is not a legal commitment. Allocated resource for BID proposer/partnership to move to 'BID readiness' will need to be supplemented by council officer resources. Relatively long lead in period to ballot to ensure best possible chance of success.	Council officer resources required pre and post ballot. No guarantee that BID ballot will ultimately be successful.

	canvassing strategy and marketing/publishing activities around the BID proposals with confidence.		
Option 3: Reject the draft proposals	Avoids wasted effort and expense for the Steering Group if Members are of a mind that based on the content of the draft, a final proposal would be vetoed. Allows for revised proposals to come forward more compatible with council policy and regulatory requirements	Reputational implications for council if proposals are not endorsed without good reason. Ballot date will probably be put back. Assuming an approval is secured at some stage, it may cause the council operational difficulties in trying to develop its systems in time for 2013/14 billing year assuming a vote in favour.	Risks for the council will mainly be around timing of the ballot and the ability to implement systems the later in the year a ballot takes place. The onus would be on the Steering Group to 'turn around' any issues in preparing a revised proposal.

5.0 Officer Preferred Option (and comments)

- 5.1 On submission of a final proposal unless it fails the regulatory and policy tests outline in paragraph 2.2 above the local authority is effectively obliged to endorse the BID proposal and approve it to go forward to a ballot. The draft proposals provide a good indication of whether it is likely the council will need to use its veto powers.
- 5.2 The draft proposals do not conflict to a material extent with any published policies and a successful BID should actively support the council's corporate objectives particularly in the areas of Economic Growth, Clean Green & Safe Places and Community Leadership. The informal work of the Steering Group in canvassing opinion and consultation appear to show a good level of support for the way the BID proposals have been shaped, particularly around the development of broad objectives with some specific highlighted actions.
- 5.3 The proposals clarify the structure of the proposed BID levy and how the financial burden of the BID is to be distributed among ratepayers. An approach which targets hereditaments over £10K may appear to place a burden on higher payers, but the vast majority of the rateable value in the town centre area is attributable to these hereditaments in any case. While there are numerous hereditaments below £10K the actual total RV, and therefore potential levy take, from these properties is not significant.
- 5.4 The amount of prior discussion between the BID proposer and the local authority before submitting the BID draft proposals to the authority has been sufficient and it is expected consultation will continue up to the submission of final proposals. The costs incurred and due in developing BID proposals, canvassing and balloting have been budgeted for within the council's grant award to the Lancaster Chamber.
- 5.5 The draft proposals do not fully meet the core documentation requirements and there are outstanding matters to be resolved in the final proposal document. But these are either minor issues of content or technical matters around levy collection, distribution and operations which need to be arranged between the

council and the final BID body (likely to be either the Lancaster Chamber or North West Chamber) who will receive and use the BID levy monies

- 5.6 The preferred Option is therefore **Option 2**, to endorse the draft proposals and associated draft baseline document. It follows that an appropriate level of delegated authority is required to ensure outstanding matters are addressed and final proposals can be approved to move forward to ballot. As these issues are mainly technical and operational it is appropriate for this to be undertaken through an officer report by the Chief Executive in consultation with Management Team.

6.0 Update on BID Resource and Legal Matters

- 6.1 Assisting with the BID Proposal and post ballot BID body arrangements will require financial input from the council over and above the cash resources already committed. The resource issues are becoming clearer, and are mainly generated post ballot following a successful BID vote. BID legislation allows for the council's administrative costs to be recovered through the BID levy. This will be discussed and negotiated with the BID proposer so that any charges are appropriate, commensurate with the task, and clear to those who will vote. There are also recoverable costs, such as new billing software, which need to be made 'up front' by the council. These issues are discussed further Financial Implications sections
- 6.2 Implementation of BIDs is usually underpinned by formal legal agreements between the billing authority and BID delivery body (likely in this case to be either the Lancaster Chamber or North West Chamber). An Operating Agreement (OA), the formal contract between the BID body and the local authority, should be entered into setting out the various procedures for the collection, payment, monitoring and enforcement of the BID levy. A sound legal framework / agreement structure is in use by Preston City Council forming the basis of the Preston BID managed through the shared Revenues/NNDR service and North West Lancashire Chamber of Trade (North West Chamber). A draft form of OA, which formed the basis of the Preston BID arrangements, is attached in Appendix 3a.
- 6.3 A feature of the OA is clarification of the 'baseline' – a statement/measure of the existing services provided by the city council to the BID area. Production of a baseline and its formal incorporation under the OA (as a "Baseline Agreement") helps the pre- and post ballot process in the following ways:
- Assists potential levy payers (the voters) identify added value of services proposed in the BID Proposal. Experience from other BID initiatives shows the most important issue is that of defining and clarifying 'additionality'. A vote will fail if the BID Proposal is perceived to replace what is already being delivered or it is revealed to be covering for statutory service shortfalls.
 - If the council is involved in delivering Complementary Services (those services provided by the council solely for the improvement or benefit of the BID area, funded using the BID levy or other contributions to the BID body) it provides a benchmark to ensure true additionality for BID resources.
- 6.4 Appendix 3b is a standard form of Baseline Agreement and Appendix 4 details

an initial baseline statement for each discrete council service delivered in the BID area (or a proportional estimate if the services are provided over a wider geographical area than encompassed by the BID). Again, the documents are based on templates used in the successful Preston BID. Members are requested to note the content of the draft OA and subsidiary draft Baseline Agreement. As final arrangements between the BID Body and city council are essentially operational matters, final approval of the formal implementation framework can be delegated to the Chief Executive.

- 6.5 Members should note that while it is regarded as best practice that operational matters are formalised prior to a ballot (mainly for clarity and as an additional 'selling point' over the BID election period) - and the draft agreements have been written in anticipation of this – it is not essential. It is more often the case that such agreements are agreed and signed off post-ballot. Members are also asked to note the content of the Appendix 4 baseline statement and approve its use in pre- ballot consultation and marketing alongside final BID Proposals.
- 6.6 There is no automatic exemption from the BID levy for local authorities. The city council will be liable for the levy on the rateable property it occupies/holds should a ballot be successful and this is outlined under Financial Implications. As a potential levy payer the council is also eligible to vote in a ballot – there are no hard and fast rules on how local authorities treat this aspect of the process and Members will be advised in due course.

7.0 Conclusion

- 7.1 The draft proposals for a Lancaster BID are generally in compliance with the statutory regulations. Members are asked to endorse the proposals to enable the Final Proposal and approval process to be undertaken in the autumn. Progression to a ballot with the aim of formally establishing the BID should follow towards the end of 2012. The report has also updated Members on potential pre- and post- ballot issues and resource implications in relation to the role of the city council in the BID development/implementation should a ballot endorse the establishment of a BID.

List of Appendices

Appendix 1 - Draft Lancaster BID Proposals

Appendix 2 - Draft Lancaster BID Proposal – Assessment of Regulatory Compliance

Appendix 3a - Draft Operating Agreement

Appendix 3b - Draft Baseline Agreement

Appendix 4 - Initial City Council Baseline Statement

RELATIONSHIP TO POLICY FRAMEWORK

In working towards implementation of Business Improvement Districts the council will be achieving and/or reviewing and improving upon a number of its corporate objectives/outcomes as defined in the Corporate Plan 2011-14. The draft BID proposals will actively support Economic Growth, Clean Green & Safe Places and Community Leadership outcomes, success, measures and actions.

Support for development of a BID in Lancaster is a Priority Action in the Lancaster Cultural Heritage Strategy.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Diversity: None

Human Rights: It is assumed from nationwide BID activity, and through its continuing application within the UK, that activities properly undertaken within the BID legislation are compatible with Human Rights.

Community Safety: If successful the draft BID Proposal is clear that it will support projects which will impact on community safety/business security matters.

Sustainability: None

Personnel: Council officer resource will need to be applied during BID Proposal and post ballot stages as outlined in the report. In the main the implications will be on the NNDR service in administering and dealing with billing of the levy.

Rural Proofing: None

LEGAL IMPLICATIONS

The Business Improvement Districts (England) Regulations 2004 prescribe the basic requirements which must be met in order for a BID to meet its statutory duty. Consideration and approval of a submitted final BID proposal is a city council duty and the route for approval to be achieved is highlighted in the report.

The council, as billing authority, has the power to veto the final BID proposal where it conflicts with any locally adopted plans. As noted in the report, use of the veto will be unnecessary if the final BID proposal follows the format and content of the draft proposal. The report partly meets the compliance requirements of conducting a check to ensure that BID plans do not conflict with any policies, and to ensure that the BID proposal and process adheres to all of the rules set out in the Regulations. However, the check is based on draft proposals and Final Proposals will need to be approved as set out in the report.

Ballot management will be undertaken via Electoral Reform Services who will meet all the necessary prescribed ballot regulations. Instructions will need to be issued by the council to initiate the ballot on approval of the final BID proposal. If the ballot is to be undertaken on the 13th December closing date as stated in the Draft Proposal key actions are as follows:

- The Steering Group as BID Proposer is statutorily required to notify, in writing, the Secretary of State and the relevant Billing Authority of their intention of asking the Billing Authority to put the BID Proposal to the ballot. This notice is required 12 weeks prior to the BID Proposer submitting final proposals to the billing authority for

approval for balloting. This has been done.

- On receipt and approval of a final proposal the city council instructs the ballot holder (Electoral Reform Services on behalf of the council) to hold a ballot – a standard letter has been drafted.
- ERS must publish notice of the ballot - no later than 42 days before the day of the ballot (the closing day). This will be 31st October at the latest.
- The day of the ballot must be at least 28 days after the date ballot papers are sent to voters and no later than 90 days after publication of the notice of the ballot.
- The ballot holder sends ballot papers to voters with a statement on the arrangements for ballot - no later than 42 days before the day of the ballot. Again this will be 31st October at the latest.

A successful BID will require formal legal agreements to be developed between the city council and BID delivery body (likely to be either the Lancaster Chamber or North West Chamber) as noted in the report – the key documents being the Operating Agreement and Baseline Agreement. Should the council become involved as a delivery partner, Complementary Services agreements may be appropriate – that is, contractual agreements for those services provided by the council solely for the improvement or benefit of the BID area, funded using the BID levy or other contributions to the BID body. However, it is not clear at this stage whether the council will be directly involved in delivering additional BID services.

As the shared Revenues service already operates a legally compliant and successful BID operation under similar agreements for the Preston BID review and formalising of operational agreements should be relatively straightforward. However, Legal Services officers will undertake detailed review in conjunction with the final BID Body and refer any matters considered to be outside officer delegated authority to Members as appropriate.

Should there be a successful ballot the levy will be a statutory debt subject to the usual principles of rate collection, reminder notices and enforcement action for non-payment. The first point of contact for businesses with billing questions will be the council, rather than the BID delivery body. Experience of BIDs nationally shows the levy is not a major cause of non-payment but enforcement action may still be required in certain cases. Revenues shared service experience of BID collection/enforcement matters will be valuable in this regard. The timetable for reminders and enforcement will follow that of the existing NNDR system.

FINANCIAL IMPLICATIONS

£40K was allocated to the Lancaster Chamber of Commerce to get the Lancaster BID to ballot stage. This is being used in line with the council's grant agreement. It includes all costs to be paid to Electoral Reform Services for undertaking the ballot.

There are a number of costs in relation to BID development that should have no bottom line impact on the Council:

1. Administrative costs of identifying BID boundaries and producing a listing of all those rateable properties within the relevant boundaries; this is judged to be absorbable within current budgets.
2. Updating the NNDR system to support the collection of BID levies; there are now an estimated 333 billable hereditaments proposed which requires an add-on module at around £9K cost following a successful ballot. This figure should be revised in the current year capital programme in 2012/13 from the £15K originally envisaged. The

intention is that this is reimbursed from the subsequent levy. There would also be an ongoing revenue cost of £1.8K maintenance reimbursed from the levy.

From the BID proposals it is not anticipated the council will incur additional costs in supporting the BID operationally post ballot. However, it will also be important for Council officers to monitor any time spent on supporting the BID levy issue and collection process

Experience of Preston BID under the shared Revenues service indicates that initially an upfront payment of full levy resource is helpful in providing cashflow to the BID body. Using the projected sums involved (£218K annual levy) at the projected bank rate, this would represent a cost of around £2K per annum in lost interest to the Council, if it was not recovered from the levy.

The main bottom line impact in cash terms will be additional cost to the council for the levy on its properties for which it holds rates liabilities within the BID area. At a 1.5% levy on property within the council will incur an additional charge of around £9K. This should be revised from the previous estimate included in the revenue budget from 2013/14 onwards.

OTHER RESOURCE IMPLICATIONS

Human Resources:

Internal council human resources will be utilised to deliver BID support as outlined in the report. The main operational issues will primarily involve NNDR officers in managing the levy billing arrangements if the BID proposals are successful. Legal Services officers will be involved in reviewing and dealing with formal agreements between the council as billing authority and the BID body. Regeneration and Planning officers will continue to provide the contact point for the council's input into the BID programme if it is successfully voted in.

Information Services:

Following a successful ballot updates to the billing software used by the council to generate and administer rates bills will be required. The implications are outlined in the report and costs will need to be reimbursed through the BID levy. There will be additional resource costs in the form of IS staff time, to work with Capita on the implementation of the software and a period of testing prior to the first year's billing for the BID. However, IS will draw on the Preston BID experience under the shared Revenue service.

Property:

The city council will be liable for the BID levy on rateable property which it occupies/holds should a ballot be successful. The BID area may encompass city council property leased to commercial tenants. Some of these will pay increased business rates as a result of a successful BID. The improvement to the environment of the area should be a benefit to these businesses and therefore the increase in rates payable should not have a detrimental affect on the rental income to the council. A successful BID may also improve the take up of the council's empty commercial property, reducing its general business rate liabilities.

Open Spaces:

The BID area may encompass areas defined as 'open space'. The potential improvement to the environment of any open space as intended by the BID Proposals should be a benefit to the council's corporate objectives, businesses and the community.

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has been consulted and has no comments to add.

MONITORING OFFICER'S COMMENTS

The Monitoring officer has been consulted and has no comments to add.

BACKGROUND PAPERS

[Cabinet Report on Business Improvement Districts July 2011](#)
[Local authority Guide to BIDS published by Association of London Government](#)

Contact Officer: Paul Rogers
Telephone: 01524 582334
E-mail: progers@lancaster.gov.uk
Ref:

LANCASTER BUSINESS IMPROVEMENT DISTRICT
DELIVERY PLAN
(April 2013 – March 2016)

WHAT IS A BUSINESS IMPROVEMENT DISTRICT?

Business Improvement Districts (BID) are an arrangement where businesses identify projects or services that will add value to their operations and then agree on the level of funds – the BID levy - which they will pay to make it happen. This arrangement is then put to a vote. A majority of businesses (by number and rateable value) have to vote in favour of establishing a BID for it to go ahead.

Under the legislation put forward by the Government a successful ballot will have to meet two tests: more than 50% of votes cast must be in favour of the BID and the positive vote must represent more than 50% of the rateable value of the votes cast.

As a business ratepayer in the proposed BID area you will have the right to vote on whether you would like the BID to go ahead. You also have the right to become involved in the process from developing the BID offer, attending BID meetings, and to lobbying other businesses to vote (whether this is for or against the BID concept)

All ratepayers who will be liable to pay the additional BID levy will have a vote in the ballot. If the majority choose to support the BID through this vote, all will pay for it. All money raised will go into a separate pot and will only be spent on projects and services agreed by the contributing businesses. This activity will only be delivered in the BID area.

The BID's projects and services will be entirely additional to any services, statutory or otherwise, already delivered by Lancaster City Council, Lancashire County Council, and Lancashire Constabulary. These benefits will only be delivered if you vote YES in the ballot.

PRINCIPLES

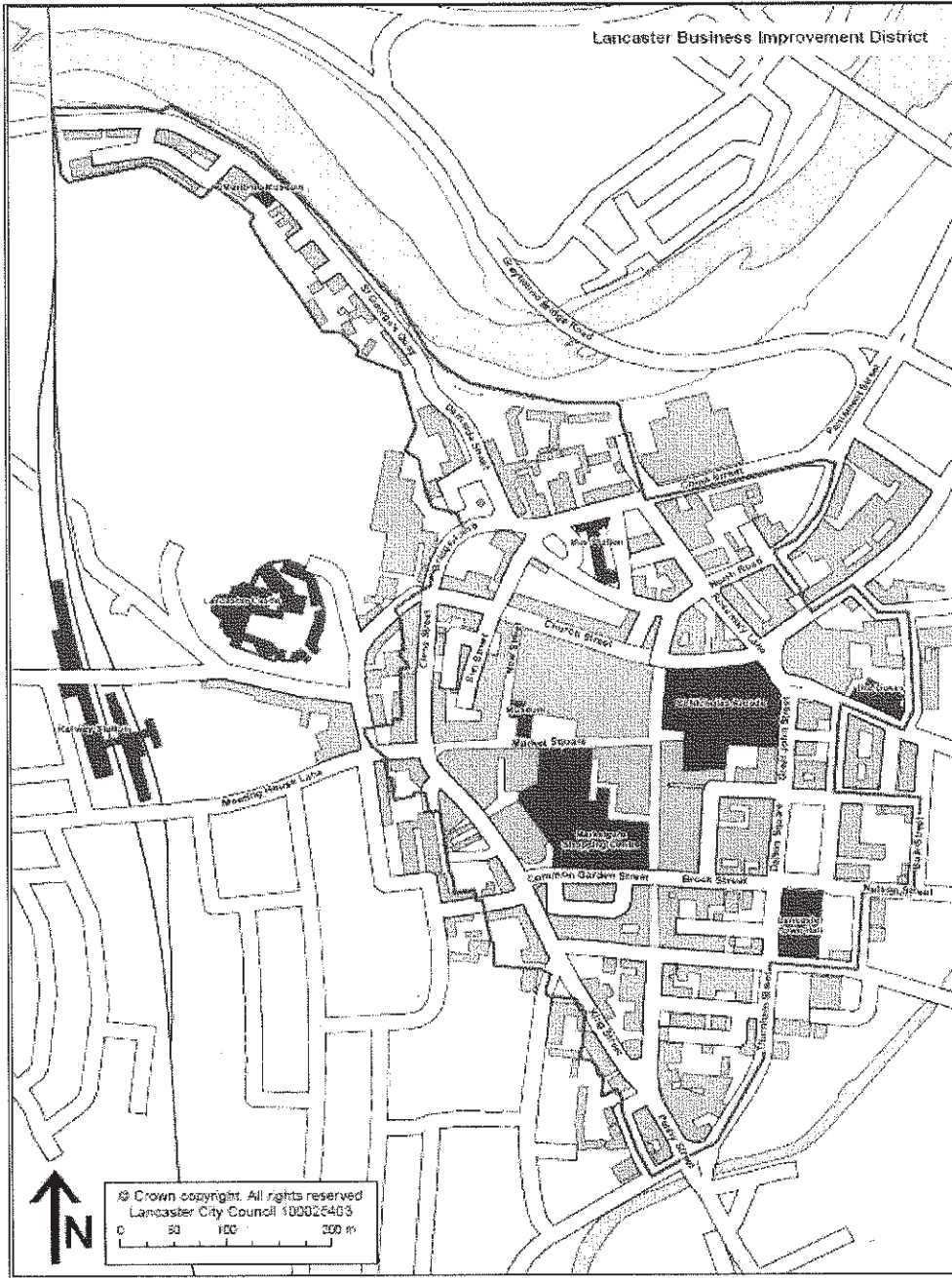
The BID will be:

- Dedicated to improving the interests of business ratepayers in the BID area.
- Providing projects and services that are in addition to activity delivered by Lancaster City Council, Lancashire County Council, and Lancashire Constabulary.
- Representative of business ratepayers in the BID area.

- Accountable by publishing annual accounts and holding annual general meetings.

THE BID LOCATION

The BID area comprises the following streets and business areas: Anchor Lane, Ashton Walk, Brewery Arcade, Brock Street, Chapel Street, Cheapside, Church Street, Common Garden Street, Corn Market, Dalton Square, Damside Street, Frances Passage, Gage Street, George Street, Great John Street, James Street, King Street, Lancaster Gate, Lower Church Street, Lucy Street, Market Hall, Market Street, Market Gate, Marton Street, Moor Lane (part), New Road, New Street, Penny Street, Rendsburg Way, Rosemary Lane, St Simons Arcade, St Georges Quay, St Leonardsgate, St Nicholas Arcades, Sun Street, Thurnham Street, Wood Street.



The business “mix” of the BID area is broken down approximately as follows:

SECTOR	%
Retail	55
Leisure / entertainment / food	20
Commercial / service	10
Public sector	5
Finance	5
Other	5

HOW WILL THE BID BENEFIT MY BUSINESS?

The feedback from the BID launch event, focus groups, other consultation events, questionnaires, and talking to visitors and businesses alike identified a number of key activities that you would like the BID to deliver.

We’ve put these activities into three main headings: “Promoting our City”, “Improving our City”, and “Special Projects”.

We want Lancaster to tell a better story. Lancaster is unique in the Northwest for its rich and varied arts and cultural community. Our city’s theatre, dance, music, literature, visual arts, and galleries are recognised nationally and internationally for their excellence and innovation.

We want to build on this uniqueness. We want our city to become a “go to” destination for more people for more of the time. But we want to do this in a way that differentiates us from our competition.

A successful BID will help us achieve this vision.

“Promoting our City” will use our unique artistic heritage to create a city centre that’s alive with culture, expression, and vibrancy. A city centre where visitors, shoppers, and residents are never quite sure what they’ll expect to see or hear. A city centre that’s buzzing and animated and exciting.



We will work with the Lancashire Arts Partnership to develop a creative programme that provides a vibrant backdrop to our street markets, open spaces, and side streets.

We will put money into developing a platform for “grass roots” creative arts to run alongside and add value to existing activity.

But we won’t forget the more traditional entertainment. And so we put more money and support into developing a bigger and brighter Christmas campaign including the Christmas lights switch on event.

We will provide money to develop other seasonal marketing campaigns around Easter and Bank Holidays.

We will support all this activity by working with Lancaster City Council to extend the number of “free parking” days when our events are taking place.

We will work with the City Council marketing team and the Lancaster Events Forum to ensure that the annual BID events programme and all the other activity going on in our city is planned and coordinated in the most effective manner.

We will provide marketing, business support, and finance to develop imaginative approaches to bring empty properties back to life.

We will publish an annual events calendar and shopping guide to enable everyone to plan their promotions campaigns around our activity.

We will employ a BID manager to help make all these things happen. The BID manager will be your manager, working and acting on your behalf, and with the clout and responsibility to make the things that you want to see happen, happen.

The BID manager will also act as a coordinator and catalyst to encourage greater cooperation between key stakeholders, users and service providers.

“Improving our City” will help create a more pleasant, cleaner, and safer city centre for your customers and, visitors.

We will employ two BID branded Street Ambassadors who will provide a “meet and greet” service and information resource for visitors and shoppers, provide general assistance and stewarding at events and other activity in the BID area, and report on and help deal with flyposting, graffiti, stickers, and illegal signs.

The Ambassadors will work alongside the PCSOs who already operate in our city centre. Their powers and responsibilities (including potential statutory powers) will increase over the lifetime of the BID.

We will provide funding for additional street furniture, information points, floral displays, and street washing. All this activity will be done in consultation with the City Council to ensure that it supports and adds value to existing plans for the city.

We will coordinate an annual “Green up our City” campaign targeting “grot spots”, graffiti, and flyposting.

We’ve got plenty of ideas for what we want to do. But we realise that you will also have ideas for projects that you want to see happen.

Our **“Special Projects”** fund will provide the support needed to bring your project ideas to life. You may, for example, have an idea for an event or a marketing campaign but lack the funding to make it happen. Or you may simply want to replace some signage or litter bins. Whatever your idea, the Special Projects fund could be used to help make it a reality.

Applications to the “Special Projects” fund can be made by any levy payer in the BID area. The fund will only be used to help cover the costs of new and additional activity. What it won’t do is fund projects that fall outside the BID area or be used to replace existing funding streams.

HOW WILL WE MONITOR OUR PERFORMANCE

You identified increased sales and customer opinions as the top two performance measures that you would use to determine the effectiveness of the BID.

We will, therefore, introduce the following performance indicators and report these to you on an annual basis:

- Monitor sales data using a representative sample of businesses willing to provide this information to us

Undertake customer satisfaction surveys with all users of the BID area to find out how satisfied they are with what the BID is delivering

Undertake levy payer surveys to determine the percentage of businesses who believe that the BID area has improved as a place to do business

Monitor empty property levels and inward investment levels

Measure our social media marketing (Twitter feeds and Facebook) in terms of comments received. We will use constructive feedback to help develop future activity.

HOW MUCH WILL I HAVE TO PAY?

The table below shows how much you will have to pay.

RATEABLE VALUE OF YOUR PROPERTY	ANNUAL BID LEVY (1.5%)	COST PER DAY
£10,000	£150	41p
£20,000	£300	82p
£50,000	£750	£2.05
£100,000	£1500	£4.11
£250,000	£3750	£10.27
£500,000	£7500	£20.55

Please contact the BID team to find out the rateable value of your property. Alternatively you can log onto the Valuation Office’s website http://www.voa.gov.uk/business_rates/index.htm.

The current rating list is based on the 2010 valuation. Levy payments will be adjusted to take into account the 2015 valuation.

BASELINE SERVICES AND AGREEMENTS

The BID’s projects and services will be entirely additional to any services, statutory or otherwise, already delivered by Lancaster City Council. Your money will not be used to pay for services that the Council has a statutory duty to provide.

What the BID will pay for are new initiatives that would not happen if the BID wasn’t in place.

In order to ensure that this happens we will establish baseline agreements with Lancaster City Council. The baseline services will relate to: marketing and promotion of the BID area, street cleaning (including litter and graffiti removal), signage and street scene.

We will monitor the Baseline Agreements on an on-going basis to ensure that Lancaster City Council maintains its agreed service delivery and does not use BID activity to replace what is already being delivered.

FINANCING THE BID

The costs incurred in developing the BID proposal, holding the BID ballot, and any other preparatory work undertaken before the BID ballot has been funded by Lancaster City Council.

Collection of the BID levy

We are proposing a BID levy of 1.5% of rateable value to be charged on all hereditaments with a value in excess of £10,000 listed in the local Non-Domestic Rating list. Only those properties which are located in the BID area will be liable to pay the BID levy.

The BID levy will be billed as a single payment in April each year and collected by Lancaster City Council. Each account will identify whether it is in respect of Non Domestic Rates or the BID Levy.

Lancaster City Council will also make it clear that the BID levy will be transferred to the BID Accountable Body. The transfer of the BID levy will be subject to a Service Level Agreement between the Council and the BID Accountable Body. Both organisations will meet on a regular basis to review the collection and billing arrangements of the BID levy.

The BID Accountable Body will provide all BID levy payers with an Annual Report detailing all income and expenditure relating to the BID. External auditors will oversee the production of annual accounts.

Period of the BID

The BID ballot will open on 19th November 2012 and close at 5pm on Thursday 13th December 2012. The result of the ballot will be declared on Friday 14th December 2012.

Subject to the BID ballot achieving a majority vote under the voting criteria (as detailed above) the start of the BID will be 1st April 2013.

The intervening period between the completion of the ballot and the start of the BID will be used to establish management and operational structures and prepare actions prior to the implementation of delivery.

During this period contracts and Service Level Agreements will be established with suppliers for the delivery of projects and with Lancaster City Council for the collection and dispersal of the BID levy.

GOVERNANCE ARRANGEMENTS

The BID Accountable Body is North and Western Lancashire Chamber of Commerce / Lancaster and District Chamber of Commerce.

The Accountable Body will take responsibility for the legal and financial management of the BID levy, employing BID staff, and providing secretarial support to the Management Group.

Payment of the BID levy will be managed by a Service Level Agreement between Lancaster City Council and the Accountable Body.

The Management Group will take responsibility for the day to day management of the BID.

Full details of roles and responsibilities can be found in Appendices I and II.

BID LEVY RULES

- The BID levy is fixed at 1.5% of rateable value
- The first term of the BID will be for three years to run from 1st April 2013 until 31st March 2016
- There will be no VAT charged on the BID levy
- The BID levy will be applied to all business ratepayers of occupied or unoccupied property with a RV of £10,000 and above in the BID area at any time that the BID is in operation. No relief is to be given to any class of non-domestic ratepayer irrespective of what ever relief or exemption they may currently enjoy in respect of Non Domestic (or Business) Rates.
- The BID levy will only be used to fund the improvement Programmes detailed in this Delivery Plan and the management and administration of the BID.
- Businesses locating or leaving the BID area during the time that the BID is in operation will pay a proportion of the levy calculated on a pro rata basis. Where this happens all amendments will be adjusted from the effective date notified by the Valuation Office
- The BID Management Group will be able to alter the BID arrangements without an Alteration Ballot as long as any alterations do not alter the geographical area of the BID, alter the BID levy payable, conflict with the Local Government Act (2003) or The Business Improvement District Regulations (2004)
- The existing recovery procedures for the standard Business Rates bill will be utilised for any non-payment of the BID levy.
- The BID arrangements may be altered without an alteration ballot in the following instances:
 1. The streets and hereditaments to be included in the BID area may alter due to changes in the local ratings list. Hereditaments may be additionally included if their rateable value, at any time during the BID period, exceeds £10,000 or they are newly

added to the local list and the rateable value threshold criteria (as set out in the above response to point 1 (1) (d) of schedule 1 of the BID regulations) is exceeded.

2. Hereditaments may also be excluded from the BID area and BID levy charge in those cases where properties are removed from the local list or the rateable value alters to below £10,000. Where this occurs such amendments will be adjusted from the effective date notified by the Valuation Office.

THE BID VOTING PROCESS

All defined business ratepayers in the BID area will be given the opportunity to vote to establish the BID during the formal ballot period. The ballot will be a confidential postal ballot managed by Electoral Reform Services, The Election Centre, 33 Clarendon Road, London, N8 0NW.

All defined business ratepayers in the BID area will be entitled to one vote per hereditament. It will be possible to appoint a proxy to vote on your behalf and information on how to do so will be included with the ballot information sent to you.

The ballot must meet two tests for the BID to be approved:

- A simple majority of those voting in favour over those who do not
- Those voting in favour must represent a greater total rateable value than those voting against

In all cases the body or person liable to pay the non domestic business rate will be entitled to vote.

THE BID BUDGET

INCOME	2013 / 2014	2014 / 2015	2015 / 2016	TOTAL
Levy @1.5%	218,000	218,000	218,000	654,000
EXPENDITURE				
Promoting	100,000	100,000	100,000	300,000
Improving	50,000	50,000	50,000	150,000
Special Projects	20,000	20,000	20,000	60,000
Management*	30,000	30,000	30,000	90,000
Levy collection	10,000	10,000	10,000	30,000
Slippage and contingency**	8,000	8,000	8,000	24,000

*includes overheads, management costs, accommodation, legal and audit fees

**includes allowance for bad debts, slippage, contingency, and re-balloting costs

Any underspend at the end of Years One and Two will be reallocated into mainstream BID budgets for the following year. Any underspend in Year Three will be carried forward to the new BID structure following the renewal ballot.

The BID will only become operational when sufficient funds have been collected. This may mean that some projects are phased in or deferred until subsequent years.

HOW CAN I FIND OUT MORE?

If you require further information please contact the BID team c/o Lancaster and District Chamber of Commerce on 01524 381331 or <http://www.lancaster-chamber.org.uk/bid.asp>

APPENDIX ONE ROLE OF ACCOUNTABLE BODY

1. Name

The Accountable Body will be North and Western Lancashire Chamber of Commerce / Lancaster and District Chamber of Commerce.

2. Role

The Accountable Body will take responsibility for the legal and financial management of the BID levy as well as providing secretarial support to the Management Group.

3. Financial management

The management of the BID account will include the following:

- A dedicated BID bank account.
- An audit trail spreadsheet that will record all items of income and expenditure against separate budget codes and cost centres.
- Overseeing contract management with suppliers
- Ensuring that the project has sufficient cashflow
- Preparation of bi-monthly management accounts illustrating expenditure against budget headings, forward projections, and balances available.
- Presenting the management accounts at all meetings of the BID Management Group.
- Checking all invoices for eligibility and accuracy.
- Ensuring compliance with all statutory and audit requirements
- Preparing an Annual Financial report

4. Employee management

The BID will support up to three new BID funded posts: a full time Manager and two Street Ambassadors.

All three posts will be placed on the Accountable Body's payroll.

These three posts will be offered on fixed term contracts covering the lifetime of the BID. All employment costs (salary, NI, pension, travel and expenses) will be covered by the BID.

5. Other legal issues

The Accountable Body will represent the BID in any court matters relating to non-payment of the BID levy.

APPENDIX TWO ROLE OF MANAGEMENT GROUP**1. Name**

The Group will be known as the Lancaster Business Improvement District Management Group, hereinafter referred to as 'the Management Group'.

2. Membership

2.1 Membership of the Management Group is proposed as follows:

Chair	1 seat
Retail sector – national	2 seats
Retail sector – independent	2 seats
Leisure sector	1 seat
Licensed sector	1 seat
Commercial	1 seat
Police	1 seat
Lancaster City Council	1 seat
Accountable Body	1 seat
Chamber of Commerce	1 seat
Charity / voluntary sector	1 seat
 Total	 13 seats

2.2 At its first meeting the Management Group shall elect from amongst themselves a Chair and Vice Chair.

2.3 For a meeting of the Management Group to be quorate at least six members must be present.

2.4 The Secretariat for the Management Group will be provided by the Accountable Body.

2.5 If casual vacancies occur among the members of the Management Group, it shall have the powers to fill these from among eligible business ratepayers in the BID area (providing that the industry sector balance in 4.1 is maintained).

2.6 Any member may resign from his/her appointment as a member of the Management Group by giving the Chairperson written notice to that effect.

2.7 The Management Group will be non-party in Politics and non-sectarian in Religion.

2.8 The Management Group will meet at least six times year.

3. Powers

Powers of the Management Group are limited but include:

- Approving new projects for inclusion in the annual delivery plan.
- Providing advice and guidance in the delivery of project activity.
- Approving the annual BID budget.
- Signing of cheques. Cheques to the value of £1000 will be signed by the Chair of the Management Group. Cheques for a higher value will be signed by two authorised signatories determined by the Management Group.
- Monitoring key performance indicators, income and expenditure.
- Representing the views of the business ratepayers in the BID area.
- Redistribution of funds amongst projects providing that full approval of Management Group is given.
- Altering the BID arrangements without an Alteration Ballot as long as any alterations do not alter the geographical area of the BID, alter the BID levy payable, or conflict with the Local Government Act (2003) or The Business Improvement District Regulations (2004)

4. Geographical area of responsibility

The Management Group's key objectives will focus on businesses and properties located within the BID area defined as including the following streets:

Anchor Lane, Ashton Walk, Brewery Arcade, Brock Street, Chapel Street, Cheapside, Church Street, Common Garden Street, Corn Market, Dalton Square, Damside Street, Frances Passage, Gage Street, George Street, Great John Street, James Street, King Street, Lancaster Gate, Lower Church Street, Lucy Street, Market Hall, Market Street, Market Gate, Marton Street, Moor Lane (part), New Road, New Street, Penny Street, Rendsburg Way, Rosemary Lane, St Simons Arcade, St Georges Quay, St Leonardsgate, St Nicholas Arcades, Sun Street, Thurnham Street, Wood Street.

5. Inclusion and equality

The Management Group will seek to undertake its activities in an inclusive manner, and will encourage participation from all areas of society irrespective of age, sex, sexual orientation, race, nationality or Political or religious or other opinion.

6. Affiliations

The Management Group may join, support or affiliate to other initiatives when it is deemed necessary in the realisation of its objectives subject to a majority vote of all members of the Group.

7. Voting

Any question arising at a meeting of the Management Group or one of its committees shall be decided by a simple majority of those business members present and voting. Voting shall be undertaken through a show of hands.

The Chair will have the casting vote.

Each member of the Management Group present shall have one vote in any given ballot, regardless of the number of representatives present from any one business at the meeting and regardless of the number of hereditaments they may represent.

8. Minutes

Minutes shall be kept of the Management Group meetings. Accuracy of minutes shall be the responsibility of the meeting Chair. Minutes shall remain draft until formally approved by the relevant meeting Chair. Any queries arising from the minutes shall be raised at the subsequent meeting. The Accountable Body will have responsibility for ensuring that accurate minutes are kept for all meetings.

9. Declaration of interest

Members must declare interest where Management Group decisions will impact on stated interest.

10. Records

The proposal for the Business Improvement District for Lancaster city centre, minutes of meetings and the annual delivery plan will be available by email or hard copy.

11. PR and media protocol

Press and media enquiries shall be referred to Chair before any official statement is made by individual members of the Management Group or working groups.

APPENDIX THREE: JOB OUTLINES

BID Manager (three year fixed term contract)

Accountable to: Management Group
Accountable for: BID Street Ambassadors

Salary	£30000
NI / Pension	£5000
Other costs	£1700
TOTAL	£36700

Purpose

To maintain and improve the quality and viability of the city centre for all users by acting as a coordinator and catalyst and encouraging cooperation between key stakeholders, users and service providers.

Job Description

- Prepare, deliver and monitor the Business Improvement District (BID) Business Plan and its resources with the BID Accountable Body and BID Steering Group.
- Develop the BID partnership structure, the arrangements and protocols to ensure is 'fit for purpose' moving forward with the intention of it becoming a widely recognised and respected Town Centre Partnership.
- Work with key stakeholders and local businesses to attract investment additional investment and trade to the town centre
- Coordinate the efforts, resources and interests of all stakeholders to enhance the
- Marketing, attractiveness and security of the town centre
- Improve communication between providers and users of town centre services
- Organise events and marketing initiatives to increase the foot-fall and retail sales in the town centre
- Secure private and public sector resources to achieve the agreed BID Business Plan
- Advise all users and stakeholders how to access relevant council services and the
- services of other appropriate agencies and act as a link between users and providers

- Advise stakeholder service managers on areas where service standards can be enhanced for the benefit of the town centre and utilise funds to deliver this.
- To report as required to the board of the BID Partnership and Town Centre Management employing group.
- To carry out any other duties required by the BID Board of directors, which are consistent with those listed above and appropriate to the title and grade of the post and the terms of reference set out by the Town Centre Management employing group.
- Secure sponsorship and other commercial income
- Monitor and record levels of service delivery against Baseline Service Level agreements
- Manage the BID budget in accordance with the Accountable Body's financial management procedures
- Manage the BID Street Ambassadors

Street Ambassador x 2 (three year fixed term contract)

Accountable to: BID Manager
Accountable for: N/a

Salary	£16000
NI / Pension	£2500
Uniform / radio	£750
Other costs / training	£750
TOTAL	£20,000

Principle duties:

1. Providing a "meet and greet" service and information resource for visitors and shoppers
2. Work alongside city centre PCSOs to provide assistance to deal with the removal of flyposting, graffiti, stickers, and illegal signs
3. Providing assistance to deal with street begging, illegal street trading, on-street drinking, littering, touting, and other anti-social activities

4. Identifying potential improvements in the environment, appearance, safety, security, and efficient operation of the BID area and reporting them to the relevant agency or organisation.
5. Undertaking satisfaction surveys in relation to BID activities
6. Mounting of promotional displays in empty shop premises
7. Providing general assistance and stewarding at events and other activity in the BID area
8. Reporting and recording incidents of crime and anti-social behaviour
9. Gathering and recording information relating to footfall, sales performance, crime reduction, and other activity to help monitor the impact of the BID.
9. Maintaining day to day contact with businesses in the BID area

Appendix 2

Draft Lancaster BID Proposal – Assessment of Regulatory Compliance

Regulation 4 and Schedule 1 of the BUSINESS IMPROVEMENT DISTRICTS (ENGLAND) REGULATIONS 2004 - set out the matters that should be included in a BID proposal. Where BID proposers decide to seek approval of BID proposals in a BID ballot, under this Regulation they must send to the billing authority the information in the table below. The current draft Lancaster BID proposal meets the published standards as follows:

Regulation 4 Requirements	Compliance Y/N	Officer Comments
Standard documents		
a copy of the BID proposals;	Y	Formatted document to be produced
a summary of the consultation it has undertaken	N	As noted in the report officers are aware of the extensive consultation undertaken by the BID Steering Group. This needs to be compiled into a formal statement.
a summary of the proposed business plan;	N	A summary will be prepared as part of the pre-ballot marketing material.
a summary of the financial arrangements for the BID body.	N	The final BID body is not yet named but will likely be either the Lancaster Chamber or North West Chamber.
Proof of sufficient funds to pay the costs of the ballot	Y	The ballot will be a confidential postal ballot managed by Electoral Reform Services. Provision is made in the current £40K grant.
Information requirements		
The works or services to be provided, the name of the provider and the type of body it is.	Y	The proposals are based around general objectives driven by consultation. The Steering Group feels this is the best way to secure a favourable vote.
The existing baseline services	N	Production of the baseline document is a function of the public service providers. A draft of the city council baseline is attached to the report for approval.
The geographical area to be covered by the BID arrangements;	Y	
The non-domestic ratepayers to be liable for the BID levy	Y	All business with RV of £10K and above.
How the levy will be calculated,	Y	BID levy is fixed at 1.5% of rateable value
Whether costs incurred in developing the BID proposals, holding the ballot, or implementing the BID are to be recovered through the levy.	N	It is clear that pre-ballot costs are covered and other costs can be recovered. This needs to be made clear in the document.
The ratepayers who will benefit from relief from the levy and the level of that relief;	Y	No other relief to any class of NNDR payer
Whether the BID arrangements may be altered without an alteration ballot and, if so, which aspects may be so altered;	Y	BID Body can alter arrangements without an Alteration Ballot as long as the geographical area is not changed and no conflict with BID Regulations (2004)
The duration of the BID arrangements and when they will start	Y	1 st April 2013 until 31 st March 2016

The following table is a list of the current Lancaster City Council Policy Framework as outlined in the council's constitution. The check-list states that the BID Proposal does not conflict with any of the policies or plans that the council has for Town Centre or the District as a whole. Comments and approval were collected from all the relevant City Council departments in detailed discussions over the draft proposals.

Lancaster City Council Policy / Strategy	No conflict with BID Proposal	Officer Comments
Those required by Regulations to be adopted by the Council		
Annual Report (formerly Best Value Performance Plan)	N/A	Not applicable as the document is a "backward looking" report.
Sustainable Community Strategy	N/A	Discontinued in 2011 but BID proposals fitted with safety and economic themes.
Community Safety Partnership Strategy	√	Actions identified in proposal cut across Partnership actions and close liaison is required to ensure compatibility.
Community Safety Plan	√	Actions identified in proposal cut across Partnership actions and close liaison is required to ensure compatibility.
Those recommended by Government Guidance to be adopted by the Council		
Corporate Plan	√	Proposals support Economic Growth, Clean Green & Safe Places and Community Leadership outcomes, success, measures and actions.
Housing Strategy	N/A	No conflict anticipated - proposal actions not applicable to housing issues.
Sustainability (LA 21) Strategy / Climate Change Strategy	√	No conflict with current strategies – could assist in the area of local response to climate change.
Other plans and strategies which the Council may from time to time decide should be for the Council to adopt		
Local Development Plan Documents (previously the Lancaster District Local Plan) produced under the Local Development Framework	√	Supports draft local policy framework to strengthen Lancaster town centre.
Vision Board Strategy	√	Proposals promote Tourism, Heritage, Culture and Quality of Life objectives /actions
Improvement Plan	√	No conflict anticipated - proposal actions may be linked to service improvement plans.
Medium Term Financial Strategy	√	BID actions and liabilities are currently estimated in MTFS. These need to be firmed up as far as possible for prudent budget setting in future years.
Capital Investment Strategy	N/A	No conflict anticipated - proposal actions not applicable to capital investment matters.
Cultural Heritage Strategy	√	BID is named as a lead action

DRAFT OPERATING AGREEMENT

Name of the Council: Lancaster City Council

Name of the BID Company: Lancaster BID

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Operating Agreement for Provision of Standard Services between

Name of the Council:

Lancaster City Council, Town Hall, Lancaster;; and

Name of the BID Company / Accountable Body

Recitals

- a) The Council is the billing authority for the purposes of the Local Government Act 2003 and is responsible for collecting the BID Levy and administering the BID Revenue Account which shall be used towards the operation of the BID within the area of the Council and the funding of the BID Arrangements
- b) The BID Company is responsible for the operation of the BID and for using the BID Levy for the purposes of achieving the objectives and aspirations set out in the BID Arrangements
- c) Both parties wish to confirm the arrangements by which the BID Levy shall be collected together with general arrangements as to the relationship to be established between the Council and the BID Company for the duration of the BID
- d) The purpose of this Agreement is to:
- establish the procedure for setting the BID Levy
 - confirm the basis upon which the Council will be responsible for collecting the BID Levy
 - set out the enforcement mechanisms available for collection of the BID Levy
 - set out the procedures for accounting and transference of the BID Levy
 - provide for the monitoring and review of the collection of the BID Levy

It is agreed:

1. Definitions

the Annual Report means a report to be prepared by the Council which details the following:-

- (i) the total amount of BID Levy collected during the relevant Financial Year;
- (ii) details of the success rate for the collection of the BID Levy;
- (iii) the Council's proposals (if any) to help improve its efficiency in the collection and enforcement of the BID Levy; and
- (iv) details of those BID Levy Payers who have paid the BID Levy and those who have not paid the BID Levy;
- (v) the Council's proposals for bad or doubtful debts

the Appeal Notice means a notice to be served by the BID Company in accordance with clause 9.2

Bad or Doubtful Debts shall have the same meaning as further described in Part 2 of Schedule 3 of the Regulations

the Ballot Result Date means the date upon which a successful ballot result has been declared in favour of putting in place the BID Arrangements

the Baseline Agreement means the Baseline Agreement annexed to this document

the BID means the Business Improvement District which operates within Lancaster city centre and which is managed and operated by the BID Company

the BID Arrangements means those arrangements to be put in place pursuant to the Regulations for the operation of the BID

the BID Company's Report means a report for each Financial Year to be prepared by the BID Company which details the following:-

- (a) the total income and expenditure of the BID Levy (as defined in the BID Delivery and Financial Plan);
- (b) other income and expenditure of the BID Company not being the BID Levy;
- (c) a statement of actual and pending deficits; and
- (c) the various initiatives and schemes upon which the BID Levy has been expended by the BID Company

the BID Levy means the charge to be levied and collected within the BID area pursuant to the Regulations

the BID Company's Termination Notice means a notice to be served by the BID Company on the Council pursuant to clause 11.8

BID Levy Payer(s) means the non-domestic rate payers responsible for paying the BID Levy

the BID Levy Rules means the rules set out in the BID Delivery and Financial Plan which sets out how the BID Levy will be calculated, details of Exempt or Discounted Properties and other requirements related to the BID Levy (as may be amended by a successful alteration ballot)

the BID Revenue Account means the account to be set up in accordance with Regulation 14 and operated in accordance with Schedule 3 of the Regulations

the BID Term means the period of three years from 1st April 2013 to 31st March 2017

the Council's Termination Notice means the notice to be served by the Council on the BID Company pursuant to Clause 11.1

the Contributors means the BID Levy Payers or other Contributors making voluntary contributions to the BID company

Demand Notice shall have the same meaning ascribed to it as further set out in paragraphs 3 of Schedule 4 of the Regulations

Heredity shall have the same meaning as defined in the Regulations

Electronic Communication means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa:

- (a) by means of a telecommunication system (within the meaning of the Telecommunications Act 1984); or
- (b) by other means but while in electronic form

the Enforcement Expenses means the costs which are incurred by the Council in issuing a Reminder Notice, obtaining Liability Orders and associated administrative expenses which may be incurred in recovering unpaid BID Levy

the Enforcement Notice means a notice to be served on the Council as specified in Clause 9

the Exceptions means the circumstances in which the Council shall not be required to seek to enforce payment of the BID Levy where a BID Levy payer has failed to make payment pursuant to a Demand Notice.

the Exempt or Discounted Properties means those class or classes of properties as identified in the BID Levy Rules which shall be exempt either from any requirement to pay the BID Levy or are permitted a discount on the BID Levy

the Financial Year means the financial year which runs from 1st April to 31st March.

Liability Order means an order obtained from the Magistrates Court

the Steering Group means the group to be set up to monitor the collection and enforcement of the BID Levy (as referred to in Clause 10) such group to consist of one Council officer, one representative from the BID Company and up to 12 Contributors

the Operational Date means the date upon which the BID Arrangements come into force

the Public Meeting means the meeting to be held of all BID Levy Payers pursuant to the Public Meeting Notice

the Public Meeting Notice means a notice to be served pursuant to Clause 11.1 or 11.8 by either the Council or the BID Company which provides the following:-

- a) confirmation that either party is considering terminating the BID;
- b) details of the venue where the public meeting will be held;
- c) confirmation that all BID Levy Payers who attend will be permitted to make representations

the Regulations means the Business Improvement Districts (England) Regulations [2004] and such amendments made by the Secretary of State pursuant to Section 48 of the Local Government Act 2003 (from time to time)

the Reminder Notice means the notice to be served pursuant to Clause 8.1

2. Statutory Authorities

2.1 This Agreement is made pursuant to Part IV of the Local Government Act 2003 and Section 111 of the Local Government Act 1972 and all other enabling powers

3. Commencement

3.1 This Agreement is conditional upon and shall not take effect until the Ballot Result Date.

3.2 In the event that the BID Arrangements are not voted in by the BID Levy Payers on the Ballot Result Date then this Agreement shall determine and cease to be of any further effect between the parties

3.3 If, at the end of the BID Term, a renewal ballot is held and is successful then the terms of this Agreement shall continue to be of effect and the BID Term shall thereafter be construed as the new term

4. Setting the BID Levy

4.1 As soon as reasonably practical after the Ballot Result Date the Council shall:-

- a) calculate the BID Levy due from each BID Levy Payer in accordance with the BID Levy Rules; and
- b) confirm in writing to the BID Company the BID Levy payable annually by each BID Levy Payer
- c) enter into the Baseline Agreement with the BID Company

5. The BID Revenue Account

5.1 As soon as reasonably practical following the Ballot Result Date the Council shall set up a BID Revenue Account within the Council's General Fund and provide written confirmation to the BID Company of the same.

5.2 As soon as reasonably practical following the Ballot Result Date the BID Company shall provide the Council with details of its own bank account into which the BID Levy shall be transferred electronically from the BID Revenue Account on production of an invoice by the BID Company in accordance with clause 7.8.

6. Debits from the BID Revenue Account

- 6.1 In accordance with the Regulations (Schedule 3), the Council shall debit from the BID Revenue Account:--
- a) payments of the BID levy to the BID company
 - b) any deductions which in the Council's opinion are bad or doubtful debts
- 6.2 The Council will invoice the BID company for agreed costs in relation to billing and collection.
- 6.3 The Council shall recover the Enforcement Expenses from the liable BID levy payer, in accordance with Clause 8.
- 6.4 The Council shall not be entitled to recover Enforcement Expenses from the BID Company.

7. Collecting the BID Levy

- 7.1 Within fourteen days of the Ballot Result Date the Council shall confirm in writing to the BID Company the date when the BID Levy shall first be collected.
- 7.2 Pursuant to clause 7.1 the Council shall serve the Demand Notices on each BID Levy payer and thereafter shall continue to calculate the BID Levy and serve the Demand Notices throughout the BID Term
- 7.3 The Council shall maintain a list which identifies payment and/or non payment of the BID Levy and shall make this available to the BID Company upon its reasonable request.
- 7.4 The Council shall liaise with the BID Company in carrying out monthly reviews of each Hereditament within the BID Area and in the event of any change in the occupier of each Hereditament or the merger or division of a Hereditament (or provision of an additional Hereditament) shall:
- a) serve an updated list of BID Levy payers upon the BID Company;
 - b) serve a Demand Notice (or alter any existing Demand Notice if appropriate) on the relevant BID Levy Payer
- 7.5 The Council shall use all reasonable endeavours to collect the BID Levy on the date specified (pursuant to clause 7.1 above) and thereafter on a quarterly basis and in accordance with the procedure set out in Schedule 4 of the Regulations
- 7.6 The Council shall use all reasonable endeavours to take all reasonable steps for collecting the BID Levy which are consistent with its usual procedures for the collection of non-domestic rates
- 7.7 The Council shall inform the BID company, upon expiry of the first month and every month thereafter, of the amount of BID levy monies collected.

7.8 The BID Company shall raise an invoice, including VAT to the Council every month or less frequently should the BID Company so decide. This invoice to be based on the information outlined in clause 7.8, for the total amount of BID levy monies collected, minus the total of BID levy monies previously invoiced for in the relevant financial year.

8. Procedures available to the Council for enforcing payment of the BID Levy

8.1 In the event that the BID Levy is not paid within 28 days from the date that it becomes payable then (subject to the Exceptions or as may otherwise be agreed between the parties) the Council shall serve a Reminder Notice on such relevant BID Levy Payer which shall:-

- a) identify the sum payable;
- b) provide a further 14 days for payment to be made;
- c) confirm that the Council will make an application to the Magistrates Court for a Liability Order to recover the unpaid sum and costs.

8.2 If after a further 14 (fourteen) days from the payment date stated in the Reminder Notice the outstanding sum of the BID Levy has not been paid the Council shall make an application to the Magistrates Court for a Liability Order to recover the outstanding sum of the BID Levy as is permitted by the Regulations and the Non Domestic Rating (Collection & Enforcement) (Local Lists) Regulations 1989 (as amended)

9. Enforcement Mechanisms for non-collection of the BID Levy by the Council

9.1 In the event that the Council is not enforcing payment of the BID Levy pursuant to Clause 8 above the BID Company shall serve the Enforcement Notice on the Council requesting that:-

- a) it serve a Reminder Notice; or
- b) it obtains a Liability Order pursuant to Clause 8.2 above

within 14 days of receipt of such Enforcement Notice and the Council shall thereafter provide written confirmation of the action taken to the recover the unpaid BID Levy

9.2 If after being served an Enforcement Notice the Council fails to take the requested action within the specified time frame then the BID Company shall serve an Appeal Notice to the Chief Executive of the Council. Such notice shall:-

- a) detail the sum which remains unpaid;
- b) confirm that the Council has failed to use the enforcement mechanisms available to it under this Agreement to recover the sum; and
- c) request a meeting take place between the Chief Executive, relevant officers of the Council and BID Company to achieve a solution and/or agree a strategy to recover the

outstanding sum such meeting to take place in any event no later than 28 (twenty eight) days from service of the Appeal Notice

- d) In the event that the Council fails to take any of the steps requested by the BID Company pursuant to clauses 9.1 and 9.2 (above) the Council shall (within 28 days of receipt of written notice from the BID Company which specifies the amount of BID Levy outstanding) pay the specified sum into the BID Revenue Account and provide written confirmation to the BID Company that this has been done

10. Accounting Procedures and Monitoring

- 10.1 Within one month from the Operational Date the Council and BID Company shall form the Steering Group
- 10.2 Every month for the duration of BID Term the Council shall provide the BID Company with a breakdown of:-
 - a) the amount of BID Levy for each individual BID Levy Payer;
 - b) details (together with the outstanding unpaid sum) of those BID Levy Payers who have not paid the BID Levy during that month;
 - c) details of the Reminder Notices issued throughout that period; and
 - d) details of any Liability Orders obtained or applied for by the Council;
- 10.3 Every six months for the duration of the BID Term the BID Company shall provide the Council with the following details:
 - a) the total amount of income received from the Contributors (excluding the BID Levy)
 - b) the total expenditure during that 6 month period.
- 10.4 The Steering Group shall meet on a bi-monthly basis.
- 10.5 At each meeting the Steering Group shall
 - a) review the effectiveness of the collection and enforcement of the BID Levy; and
 - b) if required, review and assess the information provided by the Council and the BID Company pursuant to Clauses 10.2 and 10.3 above and make any recommendations for implementation as may be agreed (and which are permitted by the Regulations and the terms of this Agreement)
- 10.6 Within fourteen days after the date of the end of the Financial Year the Council shall provide the Annual Report to the BID Company
- 10.7 Within fourteen days from the date of receipt of the Annual Report the BID Company shall provide the BID Company Report to the Council

11. Termination

11.1 The Council shall not be permitted to terminate the BID Arrangements because:

- a) in its opinion there are insufficient finances available to the BID Company to meet its liabilities for the chargeable period for the purposes of the BID Arrangements; or
- b) the Council is unable, due to any cause beyond its control to provide the works or services which are secured as part of the BID Arrangements

unless and until it first serves the Public Meeting Notice on the BID Levy Payers and the Council's Termination Notice on the BID Company and within fourteen days from the date of service of such notice both parties shall arrange to meet where the purpose of such meeting shall be to discuss and/or agree all or any of the following set out in Clause 11.2 or 11.3 (whichever is applicable)

11.2 Where the BID Termination Notice relates to Clause 11.1(a) both parties shall agree and/or discuss or review the following:

- (a) the Council is concerned that the BID Company has insufficient finances to meet its liabilities for that period and details of such concerns should be made available to the BID Company;
- (b) insufficient funds;
- (c) alternative means by which the insufficiency of the funds can be remedied; and
- (d) an appropriate time frame to resolve this issue;

11.3 Where the BID Termination Notice relates to clause 11.1(b) both parties shall agree and/or discuss or review the following:

- a) the services or works which it is no longer able to provide together with confirmation and details as to why such works or services cannot be provided;
- b) a review by both parties as to whether such works or services are of material importance to the BID so that termination of the BID Arrangements is the only option;
- c) alternative means of procuring the said services or works by third parties or increased financial funding from the BID Company;
- d) alternative replacement services or works which will be acceptable to the BID Company
- e) an appropriate time frame to resolve this issue

11.4 Notwithstanding clauses 11.1, 11.2 and 11.3 above, the Council shall cause a Public Meeting to be held prior to the termination of the BID arrangements

- 11.5 In the event that the parties cannot reach agreement in relation to the above and subject to consideration of representations made by any BID Levy Payer at the Public Meeting the Council shall be permitted to terminate the BID Arrangements provided that notice by the Council to terminate the BID shall be provided to the BID Company no less than 12 months prior to termination taking place
- 11.6 Upon termination of the BID Arrangements the Council shall review whether there is a credit in the BID Revenue Account and in the event that there are sufficient funds in the BID Revenue Account amounting to a refund of at least £5 for each BID Levy Payer (having already deducted a reasonable sum for the administration of such refund) to:
- a) calculate the amount to be refunded to each BID Levy payer;
 - b) ensure that the amount to be refunded is calculated by reference to the amount payable by each BID Levy Payer for the last chargeable period; and
 - c) make arrangements for the amount calculated to be credited against any outstanding liabilities of each BID Levy Payer or, where there are no such liabilities refunded to the BID Levy Payer.
- 11.7 Upon termination of the BID the Council shall notify the BID Levy Payers of such termination in accordance with regulation 18(6) of the Regulations together with confirmation as to whether any part of the BID Levy is to be repaid to BID Levy payers in accordance with clause 11.6
- 11.8 The BID Company shall not be permitted to terminate the BID Arrangements where:
- a) the works or services under the BID Arrangements are no longer required; or
 - b) the BID Company is unable, due to any cause beyond its control to provide works and services which are necessary for the BID to continue

unless and until it has served the BID Company's Termination Notice on the Council and thereafter carried out a proper consultation with all relevant representatives of the BID Area as considered appropriate by the Council.

- 11.9 Upon termination of the BID Arrangements the BID Company shall notify the Council of such termination in accordance with Regulation 18(5) and the Council shall notify the BID Levy payers pursuant to Regulation 18(6) together with confirmation as to whether any part of the BID Levy is to be repaid to BID Levy payers in accordance with clause 11.6

12. Confidentiality

- 12.1 Both the Council and the BID Company agree to keep confidential and not to divulge to any person without the prior written consent of the other party all information (written or oral)

concerning the business affairs of the other nor any information which has been exchanged about the BID Levy Payers or Contributors or about other third parties which it shall have obtained or received as a result of operating the BID. This obligation shall survive the termination or lapse of the BID Arrangements subject to the obligation of both parties to disclose

under the Data Protection Act 1998, the Freedom of Information Act 2000 and the Human Rights Act 1998 and any codes of practice and best guidance notes issued by the Government and appropriate enforcement agencies

13. Notices

- 13.1 Any notice or other written communication to be served or given to or upon any party to this Agreement to the other shall be in writing and shall be sent to the address provided for above or such substitute address in England as may from time to time have been notified by that party
- 13.2 A Notice may be served by
- 13.2.1 delivery to Lancaster City Council at the Council's address specified above; or
- 13.2.2 delivery to the Company Secretary at the BID Company's address specified above
- 13.2.3 registered or recorded delivery post
- 13.2.4 Electronic Communication (provided that it is in legible form and is capable of being used for subsequent reference)
- 13.3 Any notice served shall be deemed to have been validly served or given at the time when in the ordinary course of business it would have been received.

14. Miscellaneous

- 14.1 For the avoidance of doubt where any part of this Agreement is incompatible with the Regulations or any other regulations which the Secretary of State may issue pursuant to Part IV of the Local Government Act 2003 then such part shall be struck out and the balance of this Agreement shall remain
- 14.2 The headings appearing in this Agreement are for ease of reference only and shall not affect the construction of this Agreement
- 14.3 For the avoidance of doubt the provisions of this Agreement (other than those contained in this Clause) shall not have any effect until this document has been dated
- 14.4 Where reference is made to a Clause, Part, or Recital such reference (unless the context requires otherwise) is a reference to a clause, part, plan, or recital attached to this Agreement
- 14.5 References to the Council include any successors to its functions as local authority
- 14.6 References to statutes, bye laws, regulations, orders, delegated legislation shall include any such instrument re-enacting or made pursuant to the same power

15. Exercise of the Council's powers

- 15.1 Nothing contained in this Agreement or implied in it shall prejudice or affect the rights discretions powers duties and obligations of Lancashire County Council and Lancaster City

Council under all statutes bye-laws statutory instruments orders and regulations in the exercise of its functions as a local authority

16. Contracts (Rights Of Third Parties)

16.1 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

17. Disputes

17.1 All disputes or differences which shall at any time arise between the parties whether during the Term or afterwards touching or concerning this Agreement or its construction or effect or the rights, duties or liabilities of the parties under or by virtue of it or otherwise or any other matter in any way connected with or arising out of the subject matter of this agreement shall be referred to an independent person to be agreed upon by the parties or in default of agreement to be nominated by someone from the Valuation Board.

IN WITNESS whereof Lancaster City Council and Lancaster BID have caused this agreement to be signed the day and year first before written

***The COMMON SEAL of
Lancaster City Council was
Affixed in the presence of***

Authorised signatory

***The COMMON SEAL of
Lancaster BID was
Affixed in the presence of***

Authorised signatory

Date

Schedule 1 – Minimum Value Rules

The BID billing and recovery process will follow the same rules as for the general Non Domestic Rates processes when considering minimum values for issuing documentation

The minimum annual bill generated for 2013 / 2014 with a rateable value of £10,000 will be £100 for the whole year. This could be apportioned if there is a vacation/ change of occupation dates and a small value bill could result.

Accordingly, it seems reasonable to set minimum values below which demands and recovery documents will not be issued

Demand/Bill

Minimum £5.00

Reminder/Final Notice

Minimum £10.00

Summons

Minimum £50.00 plus costs

But each case will be considered on an individual basis and lower values may be issued summons if the liability is ongoing

Bailiff Referral

Minimum £100.00 plus costs

But again each case will be considered on an individual basis and lower values may be issued summons if the liability is ongoing

Schedule 2 – Charity Occupation

The BID Delivery Plan states that ALL ratepayers, of occupied and empty premises, will be liable to the BID charge.

NO relief is to be given in respect of premises occupied or owned by Charities.

The normal billing and recovery process will be followed in all cases. However summonses for non payment of the BID bill by Charities, or other accounts in receipt of National Non Domestic Rates Relief, will be referred to the BID Steering Group for consideration, using the pro forma attached.

The circumstances of the individual cases should be considered by the steering group at the first available opportunity. A minimum of three members of the Steering Group must consider each case.

The Steering Group must then notify the Billing Authority within 14 days by returning the pro forma detailing their decision and authorisation for the next action

If the Steering Group decides not to proceed with recovery through the Magistrates Court then the Billing Authority will have to write off the outstanding sum as irrecoverable.

If the Steering Group decides to proceed then a summons will be issued for the next available hearing date at the Magistrates Court

DRAFT BASELINE AGREEMENT

Name of the Council: Lancaster City Council

Name of the BID Company / Accountable Body: Lancaster BID

Baseline Agreement for Provision of Standard Services between

Name of the Council:

Lancaster City Council, Town Hall, Lancaster; and

Name of the BID Company:

Lancaster BID c/o xxxxx whose registered office is at xxxxxxxxxxxxxx

Recitals

- a. The Council is the local authority for the purposes of the Local Government Act 2003 and is responsible for providing the Standard Services within the BID Area
- b. The BID Company is responsible for the management and operation of the BID and for achieving the objectives and aspirations set out in the BID Proposal
- c. The purpose of this Agreement is to set out for the avoidance of doubt the Standard Services provided by the Council within the BID Area and to set the Benchmark Criteria against which the provision of the Standard Services are to be assessed.

It is agreed:

1. Definitions

Best Value Duty means the duty imposed on the Council by Section 3 of the Local Government Act 1999

Best Value Indicators means the best value data compiled by the Council as a result of carrying out its Best Value Duty

BID Area means that area within which the BID operates (see attached map)

BID means the Business Improvement District which is managed and operated by the BID Company

BID Proposal means the plan voted for by the BID Levy Payers which sets out the objectives of the BID

Complementary Services(s) means those services as set out in Schedule 1 of the Complementary Services Agreement

Complementary Services Agreement(s) means the agreement between Lancaster City Council and the BID Company or such further agreements as may be entered into by the BID Company for the provision of services within the BID Area which are complementary to the Standard Services.

Complementary Service Provider means the provider of a Complementary Service

Failure Notice means a notice served by the BID Company which

- a. sets out the Standard Service which the notice relates to
- b. requests the Council to liaise directly with the provider or contractor for the purposes of securing compliance with the Standard Services

Operating Agreement means the agreement entered into on 1st April 2013 between the Council and the BID Company which sets out various procedures for the collection monitoring and enforcement of the BID Levy

Regulations means The Business Improvement Districts (England) Regulations 2004 and such amendments to those regulations which may be made by the Secretary of State pursuant to Section 48 of the Local Government Act 2003 (from time to time)

Standard Services means those services which are provided by the Council within the BID Area [and the remainder of its area] as set out in Part 1 of Schedule 1 which identifies those services which it is required to undertake as part of its statutory function as local authority and Part 2 of Schedule 1 which identifies those services undertaken which are additional services to those usually provided as part of its statutory function

Standard Services Review Panel means the panel to be set up consisting of up to three representatives from the Council and up to three representatives from the BID Company

2. Statutory Authorities

- 2.1 This Agreement is made pursuant to Part IV of the Local Government Act 2003 and Section 111 of the Local Government Act 1972 and all other enabling powers

3. Commencement

- 3.1 The terms of this Agreement shall take effect upon the date of this Agreement

4. **The Council's Obligations**

4.1 The Council agrees to the following:

4.1.1 to provide the Standard Services within the BID Area at its own cost

4.1.2 in the event that the Council is unable to continue to provide all or any part of the Standard Services within the BID Area on account of its being statutorily barred from doing so in respect of any of those Standard Services set out in Part 1 of Schedule 1 or its having insufficient funds to secure the provision of any of those Standard Services set out in Part 2 of Schedule 1 it shall carry out the following for the BID Company:

- a) identify which part or parts of the Standard Services it is unable to provide;
- b) provide a detailed explanation of why such identified Standard Service is to be withdrawn; and
- c) state the date upon which the Council will cease to operate the identified Standard Service.

4.1.3 to use reasonable endeavours to liaise with and (where the Council considers it to be practicable) put in place such partnering arrangements (of a formal or informal nature) with the Complementary Service Provider where the Complementary Services are complementary to or are of a similar nature to the Standard Services

4.1.4 to implement such recommendations in the carrying out or provision of the Standard Services as may be made by the Standard Services Review Panel

4.1.5 when undertaking reviews of parts of the Standard Services to consult with the BID Company on the provision and delivery of those Services and on how they may be improved

4.1.6 not to remove or change any contractor(s) responsible for providing the Standard Services without first serving no less than two months' written notice on the BID Company stating:

- a) the removal or alteration of such contractor;
- b) the Standard Service which such contractor is responsible for providing; and
- c) the details of the new contractor appointed to provide the Standard Services(s)

5. **Monitoring and Review**

5.1 The Council and the BID Company shall set up the Standard Services Review Panel within 28 days from the date of this Agreement the purpose of which shall be to:

5.1.1 monitor the carrying out of the Standard Services

5.1.2 make any recommendations required pursuant to paragraph 5.1.1 (above) to the Council and the BID Company.

5.1.3 review the provision of the Standard Services and Complementary Services against such Best Value Indicators which the Council may publish from time to time and to make such improvements and/or alterations to the Standard Services as is appropriate to comply with or meet Best Value Indicators

5.1.4 review any Failure Notices served by the BID Company and steps which should be taken to secure the proper carrying out of the Standard Services

5.1.5 identify the need for any improvement or alteration to the Standard Services

6. Joint Obligations

6.1 Both the Council and the BID Company agree:

6.1.1 for the purposes only of monitoring the standard services to review and take account of any representations or recommendations made to them by the Standard Services Review Panel and take such action as may be appropriate

6.1.2 to carry out an annual review of the Standard Services to be provided and make such amendments to the level of services as may be required.

7. Licence

7.1 The Council hereby grants a licence to the BID Company, its agents or Complementary Service Provider to enter onto into or upon any land within the Council's Ownership or the highway for the purposes of the BID Company its agents or Complementary Service Provider carrying out any function or service required or secured (or any ancillary function) for the operation of the BID, the BID Company being responsible for making good all and any damage caused at its own expense to the reasonable satisfaction of the Council.

8. Termination

8.1 This Agreement shall be terminated upon any of the following occurring:

- a) the expiry of the BID Term provided that in the event the BID is renewed after the BID Term this Agreement shall, subject to the consent of both parties and any variations they may agree, continue to remain in force and of full effect

- b) the early Termination of the BID and the giving of relevant notices as required by the Regulations and the Operating Agreement; or
- c) the agreement of both parties

9. Confidentiality

9.1 Subject to the statutory obligations on the Council in particular the requirements of the Freedom of Information Act 2000 both the Council and the BID Company agree to keep confidential and not to divulge to any person without the prior written consent of the other party all information (written or oral) concerning the business affairs of the other nor any information which has been exchanged about the BID Levy Payers or about other third parties which it shall have obtained or received as a result of operating the BID. This obligation shall survive the termination or lapse of the provision of the BID

10. Notices

10.1 Any notice or other written communication to be served or given to or upon any party to this Deed to the other shall be in writing and shall be sent to the address provided for above or such substitute address in England as may from time to time have been notified by that party.

10.2 A Notice may be served by

10.2.1 delivery to Lancaster City Council at the Council's address or specified above;

10.2.2 delivery to the Company Secretary at the BID Company's address specified above

10.1.3 registered or recorded delivery post.

10.3 Any notice served shall be deemed to have been validly served or given at the time when in the ordinary course of business it would have been received.

11. Miscellaneous

11.1 For the avoidance of doubt where any part of this Agreement is incompatible with the Regulations or any other regulations which the First Secretary of State may issue pursuant to Part IV of the Local Government Act 2003 then such part shall be struck out and the balance of this Agreement shall remain

11.2 The headings appearing in this Deed are for ease of reference only and shall not affect the construction of this Deed

11.3 For the avoidance of doubt the provisions of this Deed (other than those contained in this Clause) shall not have any effect until this document has been dated

11.4 Where reference is made to a Clause, Part, or Recital such reference (unless the context requires otherwise) is a reference to a clause, part, plan, or recital attached to this Deed

11.5 References to the Council include any successors to its functions as a local authority

11.6 References to statutes, bye laws, regulations, orders, delegated legislation shall include any such instrument re-enacting or made pursuant to the same power

12. Exercise of the Council's Powers

12.1 Nothing contained in this Agreement or implied in it shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statute byelaws statutory instruments orders and regulations in the exercise of its functions as a local authority

13. Contracts (Rights of Third Parties)

13.1 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

14. Disputes

14.1 All disputes or differences which shall at any time arise between the parties whether during the Term or afterwards touching or concerning this Agreement or its construction or effect or the rights, duties or liabilities of the parties under or by virtue of it or otherwise or any other matter in any way connected with or arising out of the subject matter of this agreement shall be referred to an independent person to be agreed upon by the parties or in default of agreement to be nominated by someone from the Valuation Board.

IN WITNESS whereof Lancaster City Council and Lancaster BID c/o xxxxxxxx caused this agreement to be signed the day and year first before written

*The COMMON SEAL of
Lancaster City Council was*

Affixed in the presence of

Authorised signatory

*The COMMON SEAL of
Lancaster BID c/o xxxxxxxx*

Affixed in the presence of

Authorised signatory

Date

The Standard Services Agreement

The purpose of this schedule is effectively to set the "baseline" for the services.

Part One identifies such services (within the relevant service area) which the Council is required to provide as part of this statutory duty (e.g. refuse, maintenance of highway etc.)

Part Two sets out those services which the Council provides as part of its "standard" routine but which are above those provided as part of its usual statutory function. The point here being that the BID Company should nonetheless consider this part of the standard service provided by the Council in that BID Levy funds should not be used to fund initiatives which the Council has already committed itself to provide.

Part One

Baseline Service Activity:

Baseline proforma details to be inserted

Part Two

Part Two sets out those services which the Council provides as part of its "standard" routine but which are above those provided as part of its usual statutory function. The point here being that the BID Company should nonetheless consider this part of the standard service provided by the Council in that BID Levy funds should not be used to fund initiatives which the Council has already committed itself to provide.

Details to be inserted

Lancaster City Council Initial Baseline Services Assessment

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1. CCTV

Head of Service: Mark Davies, Head of Environmental Services

Date: June 2012

<p>Number of Staff and Equipment deployed in BID area</p>	<p>5 staff on Remploy contract (with budget mandate to reduce operating hours and therefore staff)</p> <p>Fully equipped CCTV control room in Lancaster Police station</p> <p>15 cameras on columns & in/on buildings (incl 2 cameras in Lancaster bus station)</p>
<p>Specification / Nature of Activity</p>	<p>Public space CCTV operation involving operation and monitoring of all cameras and hire/maintenance of equipment</p>
<p>Performance Measures</p>	<p>Monthly statistical information of crimes etc observed</p>
<p>Non compliance procedure</p>	<p>None – assumes that staff always monitor system. If that fails a new staffing contractor would be appointed.</p>
<p>Existing value of contract</p>	<p>Total system operation £376,500 (incl oncosts) for 2012/13. (Note not all costs can be split per camera)</p>
<p>Boundary area</p>	<p>Part of a 42 camera system that covers areas of Lancaster & Morecambe.</p>

2. Civil Enforcement

Head of Service: Mark Davies, Head of Environmental Services

Date: May 2012

Number of Staff and Equipment deployed in BID area	3 FT Waste and Cleansing Enforcement Officer cover the Lancaster District. Specific time allocation to the BID Project area is not available as they are deployed throughout the District.
Specification / Nature of Activity	Enforcement activities associated with legislation relevant to: Abandoned vehicles parked on the highway Littering Trade Waste Fly-tipping / Illegal abandonment of waste Containers left out on wrong collection days, including incorrect use of waste & recycling containers
Performance Measures	Internal
Non compliance procedure	Issue of Fixed Penalty Notices Issue of Section 46 Notices Removal of Vehicles Issue of Court Proceedings for Fly-Tipping offences

3. Events

Head of Service: Richard Tulej, Head of Community Services

Date: April 2012

Number of Staff and Equipment deployed in BID area	A mix of officers and time but approximate equivalent to 1.5 – 2 FTE
Specification / Nature of Activity delivered in the BID area	<p>Events:</p> <p>Lancaster Fireworks Spectacular – daytime programme of city events and night programme of events leading people back into city - city's biggest event</p> <p>Unlocked – chair, help deliver and market the programme of events</p> <p>Lancashire Witches Steering Group – member of group, supporting marketing and delivery of some of the events</p> <p>Lancaster Events Forum – chair and co-ordinate events networking forum</p> <p>Museums events – the city council funds the county council to run museums, including the events</p> <p>Street Market involvement in retail sector and other events</p> <p>Event Safety Advisory Group – chair and co-ordinate on behalf of emergency services in order to support the safe delivery of city centre events</p> <p>2012 – Olympic Torch and Velocity Festival, incorporating city centre cycle race</p> <p>Visitor Information Centre events and promotions – Lancashire Day, St George's Day, Christmas opening, English Tourism Week</p>
Performance Measures	<p>Fireworks:</p> <p>No of attendees and resident/visitor split</p> <p>Economic value of fireworks festival</p> <p>No of enquiries about event to VIC and events venues</p> <p>No of hits to website</p> <p>Equivalent advertising value</p> <p>Safety of event</p>

	<p>Unlocked: No of attendees Economic impact No of enquiries No of hits to website Equivalent advertising value Safety of event</p> <p>Torch and Velocity As above</p> <p>ESAG Ensuring safe and successful events within city</p>
<p>Existing value of contract</p>	<p>Fireworks – £40k, including event, marketing and officer time 2011 – 16,000 attendees. In 2010, based on 10,000 attendees, 30% visitors and had an economic impact of £440,000</p> <p>Unlocked £1,500 plus officer time equivalent to £3,000</p> <p>Torch and Velocity £30k including officer time</p> <p>Others above - £20k</p>

4. Visitor Information

Head of Service: Richard Tulej, Head of Community Services

Date: April 2012

Number of Staff and Equipment deployed in BID area	3.5 FTE
Specification / Nature of Activity delivered in the BID area	<p>A central walk-in information service, open six days a week all year round (also open Sundays and Bank Holidays as appropriate).</p> <p>A portal for the following:</p> <ul style="list-style-type: none"> • City information – what to see, do, eat, stay • Information leaflets • Event information and bookings • Accommodation bookings • Travel information and bookings • Sales of publications, maps, gifts and souvenirs • Ticket booking for a range of attractions • Business support to visitor facing businesses • Online shop
Performance Measures	<ul style="list-style-type: none"> • No of visitor enquiries • Visitor spend • No of bookings taken • No of businesses supported
Non compliance procedure	
Existing value of contract	<p>Cost of service £181K Income £30K Net cost of service £151K</p>

5. Marketing & Promotion

Head of Service: Richard Tulej (lead officer – Gill Haigh)

Date: April 2012

Number of Staff and Equipment deployed in BID area	2.5 staff covering district – approx 50% time spent on Lancaster. Therefore 1.25 FTE
Specification / Nature of Activity delivered in the BID area	<p>Marketing:</p> <ul style="list-style-type: none"> • Production and distribution of <ul style="list-style-type: none"> - Visitor Guide - Attractions leaflet - Guided Walks Guide - What's On • Specific campaigns and materials eg Lancashire Witches 400 leaflet and Visit Card • Target group travel market • Manage visitor facing website including district wide What's On • Co-ordinate city centre filming • Press and promotions – local, regional, national and international • Advertising • Support key publications about city • Photography/Video • Social media and e-marketing • Specific marketing of the markets • Joint marketing on a range of projects • Fund museums marketing activity • Events marketing
Performance Measures	<p>No of Visitor Guide requests No of website hits to city pages on city, coast, countryside and Visit Lancashire Lancaster pages No of web pages viewed No of film and media enquiries supported EAV of PR</p>
Non compliance procedure	
Existing value of contract	Approximately £30,000. Bear in mind some of this amount includes the BID area but is not limited to it.
Boundary area	

6. Markets

Head of Service: Mark Davies, Head of Environmental Services

Date: June 2012

Number of Staff and Equipment deployed in BID area	To be determined following closure of Lancaster Indoor Market (currently 4 staff cover all the markets in Lancaster) Charter Market involves no equipment but utilizes highway space. Assembly Rooms market – ground floor of Assembly Rooms, King Street, Lancaster. Space and assorted tables allocated to traders.
Specification / Nature of Activity	Provision of markets
Performance Measures	Various to cover nos of stalls occupied or spaces vacant. Rental income received.
Non compliance procedure	Not applicable
Existing value of contract	No specific contract in place. Charter Market net surplus £60K 2012/13 Assembly Rooms net surplus £5.5K 2012/13

7. Parking Management

Head of Service: Mark Davies, Head of Environmental Services

Date: June 2012

<p>Number of Staff and Equipment deployed in BID area</p>	<p>Off Street management and administration and provision of on-street parking services 7 staff On and Off Street parking enforcement 11 staff</p> <p>Off Street surface car parking is provided as follows:-</p> <p>Lancaster – Pay and Display - 1,000 spaces Morecambe and Heysham – Pay and Display – 1,700 spaces</p> <p>Multi-storey parking is provided in Lancaster at the following locations:-</p> <p>St Nicholas Arcades – Pay and Display - 292 spaces Marketgate – Pay on Foot - 115 spaces Parksafes – Pay on Foot Guaranteed Security – 260 spaces</p> <p>Penalty Charge Notices (PCNs) issued to vehicles parked in contravention of the on and off street parking regulations. PCNs issued by Civil Enforcement Officers using hand held computers (HHC) and cameras, integrated software used to monitor and follow up unpaid PCNs.</p> <p>62 Pay and Display machines and associated computers, software, telemetry systems used for revenue collection and control</p>
<p>Specification / Nature of Activity</p>	<p>Off Street car park management</p> <p>On and Off Street parking enforcement through partnership arrangements with Lancashire Parking Services in accordance with the Traffic Management Act, 2004 and on and off street traffic regulations and parking places orders.</p> <p>Management of On Street Parking Services in partnership with LSP including 14 residents parking schemes, pay and display parking and parking bay dispensations and suspensions.</p>

<p>Performance Measures</p>	<p>Parking enforcement monitored by annual return by LPS to the Home Office.</p> <p>Civil Parking Enforcement (CPE) operations monitored by the Traffic Penalty Tribunal (TPT) with quarterly and annual returns submitted.</p> <p>On Street parking operations monitored by LPS and Lancashire County Council</p> <p>Off Street parking operations monitored by City Council</p>
<p>Non compliance procedure</p>	<p>Parking enforcement through TPT</p> <p>Parking operations are reported through the respective authority portfolio holders and Cabinets as appropriate and through partnership and contractual arrangements</p>
<p>Existing value of contract</p>	<p>To be confirmed</p>

8. Street Cleansing

Head of Service: Mark Davies, Head of Environmental Services

Date: May 2012

Number of Staff and Equipment deployed in BID area	<p>2 schmit machines 2 beat sweepers 6 – 9:30am 7days a week = £1400 per week</p> <p>Mon & Tues, Beat sweeper, 10am – 4pm = £350 per week</p> <p>Wed to Sat. 1 Beat Sweeper, 10 – 6pm = £900 per week</p> <p>(Sun Square is done by property services)</p> <p>Bins – 135 at various locations in the town centre BID area. Emptied daily from 6am = £1600 per week</p> <p>Graffiti & Gum removal – £3000 per annum</p>
Specification / Nature of Activity	As above
Performance Measures	Internal

9. Town Centre Management

Head of Service: Mark Davies, Head of Environmental Services

Date: June 2012

Number of Staff and Equipment deployed in BID area	<p>No specific staff or equipment deployed within the boundaries but specific street trading concession locations within pedestrianised area have been approved by Licensing Committee</p> <p>Site provided for Christmas tree and contribution made of £1500.</p> <p>Community radios monitored – users buy own equipment</p> <p>Maintenance of Sun Square</p>
Specification / Nature of Activity	City centre management
Performance Measures	No. of concessions granted
Non compliance procedure	None
Existing value of contract	<p>None. Net cost of £9.2k 2012/13</p> <p>Sun Square maintained as required – no specific funds allocated</p>

10. Museums and Culture

Head of Service: Richard Tulej, Head of Community Services

Date: May 2012

<p>Number of Staff and Equipment deployed in BID area</p>	<p><u>Maritime Museum</u> Full-time & Part-time staff – 6 ft equivalent Maritime Museum& Exhibits/Collections Small Shop and Café Education Offer – school tours/visits</p> <p><u>City Museum</u> Full-time & Part-time staff – approx 8 FT equivalent City Centre Museum & Exhibits/Collections Small Shop Education Offer – school tours/visits</p> <p>Regular exhibition programme throughout the year which is themed.</p> <p><u>Dukes Theatre Funding</u> 16 Full-time & 29 Part-time staff 860 days of freelance employment Dukes Theatre & DT3 Youth Theatre</p> <p><u>Ludus Dance</u> 9 Part-time staff 215 days of freelance employment Ludus Dance Centre</p>
<p>Specification / Nature of Activity</p>	<p>Museums service Dukes - Touring theatre shows, new productions, youth theatre and diversionary activities, cinema, gallery space, education and training, working with volunteers, catering and bar Ludus – Dance centre classes programme, live dance events at the Dukes and other local venues, education and training, working with volunteers</p>
<p>Performance Measures</p>	<p>Detailed targets set out in Service Level Agreement around contributing to Economic Growth, Health & Wellbeing, Community Leadership and Clean, Green & safe Places</p>
<p>Non compliance procedure</p>	<p>Part of the Service Level Agreement</p>
<p>Existing value of contract</p>	<p>Museums Service: £549, 000 Dukes Theatre: £143,900 Ludus: £22,200</p>

11. Licensing

Head of Service: Sarah Taylor, Head of Governance

Date: May 2012

Number of Staff and Equipment deployed in BID area	3 Members of staff. Unable to split staff time as engaged in the whole Lancaster City Council Area
Specification / Nature of Activity	<p>All offences or breaches committed under the licensing Act 2003 including –</p> <p>Ensuring the correct authorisations are in place.</p> <p>Ensuring that licences are displayed correctly</p> <p>Ensuring that conditions attached to the licences are complied with</p> <p>Ensuring that the following Licensing Objectives are maintained:-</p> <ol style="list-style-type: none"> 1. The protection of children from harm 2. The prevention of Public Nuisance 3. The prevention of Crime and Disorder 4. Public safety <p>The Regulation of Hackney carriage and Private Hire Vehicles including:-</p> <p>Ensuring that all vehicles and drivers are correctly licensed</p> <p>Spot checking vehicles to ensure their safety.</p> <p>Ensuring that drivers comply with all current legislation, terms and conditions of licences.</p> <p>Ensuring that there are no illegal unlicensed vehicles operating in the district in order to ensure public safety.</p> <p>Ensuring that private hire vehicle are not illegally plying for hire.</p> <p>The provision and enforcement of taxi ranks.</p> <p>The Regulation and Control of Street Collections and House to House collections including:-</p> <p>Ensuring that the correct permissions are in place</p>

	<p>Requesting financial returns</p> <p>Entering a voluntary site management agreement with the Public Fundraising Association in order to control face to face collectors who are otherwise not regulated by any legislation.</p> <p>Carrying out joint operations with Trading Standards Officers to raise public awareness of bogus House to house collectors.</p> <p>The Regulation and Control of Street Cafes</p> <p>Ensuring that appropriate policies and conditions are in place in order to allow street café's licensed to enhance the area.</p> <p>Ensuring that conditions are complied with.</p> <p>The Enforcement of Smoke Free Legislation</p> <p>Ensuring that correct signage is displayed on premises and in licensed private hire and hackney carriage vehicles.</p> <p>Ensuring that smoking is not taking place on licensed premises or licensed private hire and hackney carriage vehicles.</p>
Performance Measures	Internal
Non compliance procedure	<p>Warnings verbal/written</p> <p>Fixed penalty Notices (smoking)</p> <p>Report to relevant Committee</p> <p>Prosecution</p>
Existing value of contract	None

12. Refuse and Recycling

Head of Service: Mark Davies, Head of Environmental Services

Date: May 2012

Number of Staff and Equipment deployed in BID area	<p>1 Refuse Collection Vehicle. 1 Recycling Vehicle 2 Drivers, 2 Operatives.</p> <p>Vehicles and staff work in residential areas throughout the BID Project area, at least one day per week.</p> <p>Approximately 2-4 hour's week.</p>
Specification / Nature of Activity	<p>Access restrictions apply to BID Project area. Access available up to 10.30hrs with no return until after 17.00hrs Monday to Saturday.</p> <p>Collection of residual waste. Collections made are either in supplied orange sacks or 240L containers.</p> <p>Communal recycling is provided to some domestic residences recycling boxes to other.</p>
Performance Measures	Internal
Non compliance procedure	Section 46 Notices Fixed Penalty Notices

13. Street Furniture and Grounds Maintenance

Head of Service: Mark Davies, Head of Environmental Services

Date: May 2012

<p>Number of Staff and Equipment deployed in BID area</p>	<p>76 hanging baskets; once a year plus watering once a week depending on weather. £1200pa</p> <p>10 flowerbeds, 7500 plants * twice a year = £4500pa (inc. staff time)</p> <p>Various trees. Pruning once a year for CCTV £1500</p> <p>Public toilets – are privately owned. We pay Market £10,000pa for public use of the toilets.</p> <p>Benches (under grounds maintenance) – Memorial Garden (2) and Dalton Square (4)</p> <p>Seats – 42: Market St / Sq (10), Cheapside (8) Sir Simons Arcade (3), Penny Street (6), Church Street (2), Dalton Square (1), New Street (4), Queen Street (4) Rosemary Lane (1), St Georges Quay (3)</p> <p>Finger Posts – 17: Aldcliffe Road - Penny St bridge, Dalton Square – Town Hall, Great John Street / Dalton Sq, Church St / Stonewell, Cheapside / Church St, Cheapside – Horseshoe Corner, Penny St / Brock St, Market St – Marketgate, Market St – Sun St, Market St / King St, Covell Cross / China St, Fleet Square, St Georges Quay, Church St / New St, Market St – Sir Simon's Arcade, Wood St – Bus Station, Common Garden St / King St</p> <p>Amenity Lighting:</p> <p>Aalborg Square - 5 lamp columns Dalton Square - 8 pedestal lamps Penny Street - 1 column two globes New St. - 1 column four globes Moor Lane - 1 memorial lamp column St Johns Churchyard - 4 floodlamps</p>
<p>Specification / Nature of Activity</p>	<p>As above</p>
<p>Performance Measures</p>	<p>Internal</p>

14. Commercial Refuse Collection

Head of Service: Mark Davies, Head of Environmental Services

Date: May 2012

Number of Staff and Equipment deployed in BID area	<p>1 Refuse Collection Vehicle. 1 Recycling Vehicle 2 Drivers, 1 Operative.</p> <p>Vehicles and staff work throughout the BID Project area part of each day Monday to Saturday. Morning and early evening. Approximately 1.5 hours per day.</p>
Specification / Nature of Activity	<p>Access restrictions apply to BID Project area. Access available up to 10.30hrs with no return until after 17.00hrs Monday to Saturday.</p> <p>Delivery of Trade Sacks (chargeable).</p> <p>Collection of trade waste and trade recycling.</p> <p>Collections made are either in pre-paid sacks or commercial containers.</p>
Performance Measures	Internal
Non compliance procedure	Termination of services Fixed Penalty Notices
Existing value of contract	Unable to quantify, service is available throughout the district.

15. On-street Recycling

Head of Service: Mark Davies, Head of Environmental Services

Date: May 2012

<p>Number of Staff and Equipment deployed in BID area</p>	<p>1 Recycling Vehicle 1 Driver</p> <p>Vehicle and staff operate 3 times per week, Monday, Wednesday and Friday. Approximately 1 hour per day.</p>
<p>Specification / Nature of Activity</p>	<p>Access restrictions apply to BID Project area. Access available up to 10.30hrs with no return until after 17.00hrs Monday to Saturday.</p> <p>Collection from On-Street Recycling Containers. Co-mingled facilities for Paper/Cardboard and Cans/Glass and Plastic Bottles.</p> <p>8 Locations situated around the BID Project area.</p> <p>Locations: o/side BHS Market Street o/side TK Max Church Street o/side Police Station George Street o/side McDonalds Cheapside o/side Yorkshire Bank, Common Garden Street o/side Bus Stops Common Garden Street Meeting House Lane Cable Street near Bus Station</p>
<p>Performance Measures</p>	<p>Internal</p>

