



**LANCASTER
CITY COUNCIL**

Promoting City, Coast & Countryside

INDIVIDUAL CABINET MEMBER AND OFFICER DELEGATED DECISIONS

MONDAY, 21 AUGUST 2023

Please find enclosed Decision Notice in connection with the following:

ICMD2 Developing a Registered Provider Framework (Pages 2 - 12)

Please note that this is subject to call-in.

Queries regarding these documents

Please contact Liz Bateson, Democratic Services - email ebateson@lancaster.gov.uk.

Democratic Services,
Town Hall,
Dalton Square,
Lancaster,
LA1 1PJ

Published on MONDAY, 21 AUGUST 2023



Promoting City, Coast & Countryside

**EXECUTIVE DECISIONS TAKEN BY CABINET PORTFOLIO HOLDER OR DELEGATED OFFICER
NOTICE OF DECISION**

TITLE OF DECISION:			
Developing a Registered Provider Framework			
NAME OF DECISION TAKER:	COUNCILLOR CAROLINE JACKSON		
POSITION AND RESPONSIBILITY HELD:	CABINET MEMBER FOR HOUSING		
CONTACT OFFICER:	KATHY BEATON		
TELEPHONE:	01524 582724		
E-MAIL:	kbeaton@lancaster.gov.uk		
Details of Decision: Developing a Registered Provider Framework			
<p>(1) That the proposed Registered Provider Framework be approved.</p> <p>(2) That the Registered Provider Framework be implemented forthwith, and all existing partners and new entrants are invited to apply for inclusion on the Framework.</p> <p>(3) That the Registered Provider Framework be reviewed on a two-yearly basis to ensure its effectiveness and purpose is maintained.</p>			
Reasons for the decision: To approve the proposed Registered Provider Framework and authorise officers to implement it forthwith.			
<p>The decision will formalise the current arrangements and implement a new framework for Registered Providers (RPs) which will ensure existing partners and new entrants will meet the council's required standards and work to shared priorities and objectives. The proposed framework is intended to be an effective tool to ensure that new RP's seeking to join the framework are suitable partners and can demonstrate an ability to align to the council's housing, planning and homelessness priorities, objectives and policies going forward.</p>			
IS THE DECISION URGENT			
No			
I confirm that I have taken account of the options proposed by officers, the various implications set out in the report and the comments of the Monitoring and Section 151 Officers and am authorising the decision as set out above.			
SIGNATURE OF DECISION TAKER:	Cllr Caroline Jackson		
DATE:	21.8.23		
<i>THIS SECTION TO BE COMPLETED BY DEMOCRATIC SERVICES</i>			REF NO.
DATE DECISION TAKEN:	18.8.23	DATE RECEIVED BY DEMOCRATIC SERVICES:	18.8.23
DATE DECISION PUBLISHED:	21.8.23	IMPLEMENTATION DATE (publication day + 5 working days):	30.8.23

INDIVIDUAL CABINET MEMBER DECISION

Developing a Registered Provider Framework

Report of Chief Officer – Planning and Climate Change

PURPOSE OF REPORT				
The report seeks Cabinet Member approval for Lancaster City Council to implement a new Registered Provider Framework for Lancaster district.				
Key Decision	N	Non-Key Decision		Referral from Cabinet Member
Date of notice of forthcoming key decision				
This report is public				

RECOMMENDATIONS OF THE CHIEF OFFICER – PLANNING AND CLIMATE CHANGE

- (1) That the Cabinet Member approves the proposed Registered Provider Framework.
- (2) That the Registered Provider Framework is implemented forthwith, and all existing partners and new entrants are invited to apply for inclusion on the Framework.
- (3) That the Registered Provider Framework is reviewed on a two-yearly basis to ensure its effectiveness and purpose is maintained.

1.0 Introduction

1.1 Lancaster City Council has very well-established links with key Registered Providers (RP’s) in Lancaster district who own existing social housing and/or who are actively seeking development opportunities. The role of Registered Providers is critical to increasing the supply of social and affordable housing in Lancaster district, and to ensure that there is a sufficient number of partners to work with developers in delivering new affordable housing negotiated on market housing schemes (whereby the planning permission requires the developer to provide on-site affordable housing referred to in this report as Section 106 opportunities). The term Registered Provider means any person, body or entity registered with Homes England (formerly the Homes and Communities Agency) as a provider of social housing in accordance with section 80 (2) and chapter 3 of the Housing and Regeneration Act 2008.

- 1.2 When the housing strategy function transferred into the Planning Service in 2010, the partnership arrangements were refreshed and have continued to strengthen since then. The Service Manager for Planning and Housing Strategy has chaired quarterly meetings which all existing RP partners are invited to attend, and the Principal Strategic Housing Officer has acted as the single point of contact for RP's. More recently, the partnership meetings have been split into two distinct groups for neighbourhood management staff and development staff, so there is ample opportunity to discuss and debate specific issues pertinent to staff roles and areas of responsibility and to share best practice. At the present time, there are 11 RP partners who actively engage in the existing partnership as developing RP's, although it should be noted that there are 35 in total providing a mix of general needs accommodation, homes for the elderly and supported housing for vulnerable groups. Some existing partners are large national organisations and others very small and specialist in nature.
- 1.3 The council is seeking to formalise the current arrangements and implement a new framework for RP's which will ensure that existing partners and new entrants will meet the council's required standards and work to shared priorities and objectives. Most notably, the proposed framework is intended to be an effective tool to ensure that new RP's seeking to join the framework are suitable partners and can demonstrate an ability to align to the council's housing, planning and homelessness priorities, objectives and policies going forward.
- 1.4 Some of the existing RP's are well established, longstanding and trusted partners. Whilst the number of developing RP's has increased in recent years, the pre-cursor has been to engage in dialogue with the council and discussing the council's priorities and housing needed in the district prior to commencing any development activities or seeking to acquire S106 affordable housing units. More recently there has been a regional increase in speculative RP's increasing their activities in Lancashire and Cumbria without either the knowledge or prior consent of the respective Local Authority and this has been a key driver in bringing the proposed Framework into fruition. It should be noted however, that Local Authorities have no direct powers to regulate RP's as this is a power that falls to the Regulator of Social Housing (RSH) set out in the Housing and Regeneration Act 2008. However, the Framework allows the city council to exercise better control of those RP's who apply to be included and provides a very clear message regarding the standards and practice expected.

2.0 Framework Principles

- 2.1 All existing RP partners have been consulted on the proposed Framework over a series of partnership meetings with officers outlining the purpose and need. As well as measuring the quality and effectiveness of RP partners, one of the key elements is to control the

number of partners included at any one time. Over the years, the city council has taken a fairly relaxed stance on allowing new entrants to join the partnership but having too many partners can be counter-productive by creating unnecessary competition between RP's bidding for the same sites/S106 affordable housing units and runs the risk of driving up costs. Whilst officers have previously considered the implementation of fixed transfer values (which sets a cap on the amount the RP pays for affordable housing units by tenure through S106 opportunities), this is not being proposed at this time and may be reconsidered when the council undertakes a full review of the Local Plan when affordable housing viability will be robustly re-tested.

- 2.2 Appendix 1 of the report is the proposed Framework document which sets out the process and criteria by which RP partners will be assessed against. The assessment process contains two stages: Stage 1 requires all RPs to pass every stage, and if successful, Stage 2 considers the suitability of each RP in terms of the management of their existing stock (where applicable) development delivery, organisation performance generally and in relation to nominations percentages and collectively the responses in Stage 2 will constitute a pass or a fail.
- 2.3 New entrants will be required to submit additional information which will detail their existing activity and stock portfolio, the organisation structure and operational management arrangements along with key policies in relation to the allocation and management of their social and affordable housing. This information is critical to assess whether a new entrance is considered suitable.

3.0 Details of Consultation

- 3.1 Along with consulting existing RP partners over a series of partnership meetings, the council's Legal Services recommended that independent Legal Advice was obtained prior to implementing the proposed framework. This was primarily to establish whether there were any elements that could give rise to risk of potential challenge.
- 3.2 Trowers and Hamlins LLP were commissioned for this purpose. Their advice took account of subsidy control, procurement, local authority decision making and planning constraints. In summary, these are set out below:-

- 3.2.1 Trowers' advice made it clear that the RP framework should not give partners any unfair advantage over any transactions constituting a public contract where tendering is necessary and that a level playing field exists. Furthermore, that the assessment criteria applied pertains to the ownership, management and maintenance of social

housing.

3.2.2 In relation to planning duties, concern was raised about the extent to which the council could impose a requirement that developers must only transfer affordable housing units to those RP's included on the proposed Framework which could be considered unreasonable in the context of applying the Reg 122 Test. The advice recommended that developers should be allowed to contract with an RP not on the framework if they would otherwise satisfy the eligibility criteria but provide an undertaking to use reasonable endeavours to contract with an RP already included on the RP Framework.

3.3 In taking account of the Trowers advice a further series of public consultation took place in January 2023 inviting developers, house builders and agents to comment. Only two responses were received with no substantive reasons being presented for the council not to proceed with implementing the Framework. Should the proposed Framework be approved, the opportunity to join the Framework will be advertised on the council's website. The council will also adopt the suggest clauses recommended by Trowers for inclusion on new Section 106 Planning Agreements.

3.4 An officer panel will assess all applications for inclusion on the Framework. A right of appeal will be provided as part of the process and undertaken by an officer not involved in the original panel decision.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: Implement the proposed Registered Provider Framework	Option 2: Do not Implement the proposed Registered Provider Framework
Advantages	It will give the council greater control over which Registered Providers can join the proposed framework. The suitability of RP's will be properly scrutinised. The framework gives the council the ability to remove any RP should they fall below our expected standards, be subject to any regulatory judgement by Homes England or become de-registered. it gives a clear message to deter	No real advantages other than no further officer time spent on implementing the framework and assessing the applications.

	speculative Registered providers who seek to advance proposals that do not align to council priorities and policy framework.	
Disadvantages	The framework itself is not legally binding but it will better control how Registered providers operate in the district and how S106 affordable housing units are delivered.	The existing system would remain in place but as outlined in the report without any degree of scrutiny and performance review of new and existing RP's. the council could remain more exposed to the impact of speculative RP's and their activities.
Risks	As long as the Framework does not affect free competition, appropriate procurement requirements and regulatory practice and does not fetter the LPA planning functions, then there are no reasonably foreseeable risks to the Framework. If the converse occurs then there is a risk of legal challenge against the use of the Framework.	No risk of challenge although the modifications made would sufficiently reduce the risk of challenge based on Trowers advice.

5.0 Officer Preferred Option (and comments)

5.1 The officer preferred option is Option 1.

6.0 Conclusion

6.1 The establishment of the RP Framework will ensure that all RP's admitted can demonstrate a track record of adopting suitable management, performance and development standards along with mechanisms to remove RP's from the Framework should the need ever arise.

RELATIONSHIP TO POLICY FRAMEWORK

Both the Local Plan 2011-2031 and the Homes Strategy 2020-25 seek to increase the supply of social and affordable housing in Lancaster district with planning policies stipulating that new affordable housing should be delivered by suitable Registered Providers.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing)

The implementation of the RP Framework is not expected to have any negative impacts. Successful RP's will be expected to demonstrate their suitability and adhering to housing

legislation, policies and practices which do not directly or indirectly discriminate any particular group.

LEGAL IMPLICATIONS

External legal advice has been sought on the Framework. Details of relevant issues are set out in the body of the report. In implementing the Framework, the Council needs to make sure that they do not stray into practices that affects appropriate procurement, state subsidy and appropriate regulatory practices. The practical workings of the Framework need to be appropriately kept under regular review and any development on the use of the Framework should by appraised for legal compliance and risk.

In determining applications to the Framework Officers must be mindful of their public law duties when making decisions. A decision on an application may be subject to a judicial review challenge if not made correctly.

FINANCIAL IMPLICATIONS

There are no direct financial implications arising from this report. The process of adopting and implementing the RP Framework and assessing applications can be resourced from within existing budgets.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

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: Kathy Beaton
Telephone: 01524 582724
E-mail: kbeaton@lancaster.gov.uk
Ref:

Proposed Registered Provider Framework - Lancaster City Council

Introduction

Lancaster City Council has a well-established Registered Provider Strategic Partnership which has been operating very successfully for many years. Homes England records show that there are currently 35 Registered Providers with stock in Lancaster district. This includes smaller Registered Providers who have previously delivered specialist supported housing (such as group homes for people with learning disabilities) through commissioning arrangements with Lancashire County Council. The existing membership, however, primarily includes the 11 developing Registered Providers in Lancaster district.

The council is very committed to strengthening the partnership with continued attendance at regular meetings, the opportunity for RP's to be appraised of and shape local policy and practice, forthcoming consultations, development opportunities, participation in discussion on challenges and approaches, and opportunities to engage directly with Homes England on local-specific updates and briefings.

The council is proposing to introduce a more structured process to evaluate the suitability of new entrants wishing to join the Framework and to ensure that existing Partners continue to engage positively underpinned by shared values and shared objectives. **The Framework will initially be limited to Registered Providers seeking to provide general needs accommodation, older people's housing and/or supported housing for homeless households for which Lancaster City Council is the lead commissioner.**

Lancaster City Council reserves the right to determine the suitability of new entrants along with the optimum number of Registered Providers who form part of the proposed Framework in order to maintain a level playing field and avoid unnecessary and unhelpful competition between Partners but crucially to ensure there is a sufficient number of developing RP's to ensure the council can meet its housing priorities, statutory duties, planning policy requirements and provide a wide mix of tenures to meet the diverse housing needs across Lancaster district.

Initial Engagement

The city council expects that all interested parties will initially make contact and discuss with the Principal Housing Strategy Officer of their desire to join the partnership ahead of becoming operational in Lancaster district and well in advance of taking schemes forward allowing the council to provide an initial steer on next steps and appropriate timing for an application to be submitted for consideration. Where an RP is seeking to deliver a scheme which is a direct fit and will meet an acute need or key housing priority, they may be signposted to make an immediate application.

Consultation and Implementation

All existing Partners have been invited to comment on the proposed Framework ahead of its implementation. Following adoption, the Framework will be subject to monitoring and periodic review. The Framework will be approved in the form of an Individual Cabinet Member Decision for final sign off by the Cabinet Member for Housing.

Going forward, the membership of the Framework will continue to consider its scope and purpose, for example, whether the Framework should include Fixed Transfer Values for the acquisition of affordable housing delivered through Section 106 negotiations as well as a formal allocation process for this.

Evaluation of Applications and reviews

Applications to join the Framework will be open to all RPs. Existing Partners will be invited to join.

A selection panel of senior officers from the council’s Housing Strategy and Housing Options Team will jointly assess the applications. The duration of the Framework will run for **two years** initially unless it is deemed necessary to review it sooner and new RP’s will normally only be invited to join during the review period.

If the council takes the decision to reject an application for inclusion on the Framework, the Registered provider can appeal the decision by submitting a written request for review, which needs to be submitted within 28 days of the original written notification along with any further information in support of the application.

An officer who was not involved in the original decision will conduct the review and take account of any subsequent information presented and will notify the applicant of the outcome of the review within 28 days of the request for review being received by the council.

Stage 1 – assessment

APPLICANTS MUST PASS EACH QUESTION IN STAGE 1

- a. Demonstrate your commitment to align to Lancaster City Council’s identified housing, regeneration and homelessness priorities (for Registered Providers with an existing portfolio in Lancaster district, your existing or most recent performance will be of particular relevance). New partners can submit supporting evidence of other existing LA partnerships which demonstrate their commitment to this (please tell us your lead contact should further references be required) - NO MORE THAN 500 WORDS.

PASS/FAIL

- b. Is already signed up or willing to sign up to the Council’s Choice Based Lettings Scheme Ideal Choice Homes, enter into a nomination agreement which prescribes a minimum of 50% nomination rights for stock in Lancaster district and provide nomination results and lettings returns within agreed timescales. Failure to sign up would otherwise lead to removal from the Framework. YES/NO

PASS/FAIL

- c. A commitment to full engagement and regular attendance at the Strategic Partnership meetings. YES/NO

PASS/FAIL

- d. Will have regard to or adheres to planning policy requirements and evidence base set out in the council’s Local Plan Development Management DPD, Meeting Housing Need SPDs and Strategic Housing Market Assessment which set out the required dwelling type of affordable housing as well as the council’s adopted Tenancy Strategy. YES/NO

PASS/FAIL

- e. The applicant is Registered Provider with Homes England and has Investment Partner Status (either in their own right or as part of a consortia). YES/NO

PASS/FAIL

- f. Provide evidence or confirmation that the organisation is sufficiently engaged or undertakes to engage with the relevant commissioning lead for the provision of existing and proposed supported and specialist housing in advance of any scheme being taken forward, and will adhere to local and national standards, now and in the future, in relation to the provision and management of supported housing. (NO MORE THAN 500 WORDS)

PASS/FAIL

Stage 2 - assessment

APPLICATIONS WILL NOT BE CONSIDERED WITHOUT THE FOLLOWING DOCUMENTATION BEING SUBMITTED WITH YOUR RESPONSE.

Existing Partners

Please submit the following:-

1. Lettings returns for your stock in Lancaster district for the last three years to evidence full compliance with nomination requirements.
2. Detailed breakdown of all stock in Lancaster district by address, property type and tenure.
3. The adopted Tenancy Policy.

New Entrants

Please submit the following: -

1. Proof of Registration as an RP.
2. Details of your existing stock profile including location, types and tenures.
3. Your organisation and operational management structure along with details of how stock in Lancaster would be managed.

Your organisation's current operational management policies including allocation policies, rent setting and income management and tenancy enforcement.

Questions for both Existing Partners and New Entrants

Development Expertise/Climate Change

1. How have you decarbonised existing stock and what are your milestones for further decarbonisation? When will you be able to deliver zero carbon homes?

Performance

- 2a Please set out how your organisation achieves its own identified performance targets in all aspects of neighbourhood management and housing development and how these are currently measured/reviewed?
- 2b What management arrangements are currently in place to manage your stock in Lancaster district and in what circumstances would you engage in multi-agency working to tackle issues around: -

- anti-social behaviour
- income maximisation

2c What rating has your organisation been most recently awarded by the RSH and when?

2d Has your organisation ever been subject to any regulatory intervention, judgements, been de-registered or been found guilty of severe maladministration by the Housing Ombudsman? What action have you taken to rectify any issues raised? If you have been subject to regulatory intervention, whether you have tackled issues identified as part of the intervention?

Yes/No (if yes please provide details).

Increasing Affordable Housing Supply

3 Whilst recognising that most developing RP's have a strong preference for new build schemes, given the unprecedented demand for social housing at the present time, we are particularly keen to work with partners who are willing to bring forward purchase and repair schemes. Is your organisation willing to explore and deliver this?

Yes/No

Please provide some further detail to explain your response

Housing First (for rough sleepers or those at risk of rough sleeping)

4. Is your organisation willing to support the city council in delivering a Housing First scheme in Lancaster district? (The proposed scheme will require 6 x one-bedroom self-contained properties to be earmarked each year across the partnership and will include a contribution from the city council.

Yes/No

Please provide some further detail to explain your response

Stage 2 Scoring– A Pass/Fail will be awarded against the overall responses and evidence provided.

A **Pass** will be given where the performance and suitability of the Registered Provider in relation to ownership, management and maintenance of their stock is considered from responses and evidence provided to be satisfactory and either meets or exceeds the council's requirements in making a valuable contribution to meeting housing need.

A **Fail** will be given where the performance and suitability of the Registered Provider falls below satisfactory, on consideration of the responses given and evidence provided, and the submission/evidence causes concern about their ability to effectively manage and maintain stock and/or make a valuable contribution towards meeting housing need.