



LATE REPORTS, URGENT BUSINESS and SUPPLEMENTARY INFORMATION

Cabinet

Tuesday, 17 February 2009

The following reports were received too late to be included on the main agenda for this meeting and were marked 'to follow'. They are now enclosed, as follows:

Agenda Item Number	Page	Title	Reason for Late Report	Officer Responsible For Late Report
9	1 - 25	PAY INFLATION AND EARLY TERMINATION OF EMPLOYMENT POLICIES	Received after publication of the agenda	Chief Executive

Agenda Item Number	Page	Title	Reason for Late Report	Officer Responsible For Late Report
14	34 - 51	MEMORIAL SAFETY PROGRAMME	Received after publication of the agenda	Corporate Director (Community Services)

Agenda Item Number	Page	Title	Reason for Late Report	Officer Responsible For Late Report
19	52 - 63	EMPLOYEE ESTABLISHMENT - VACANCY AUTHORISATION (Includes revised coversheet showing all vacancies to be considered at the meeting)	Additional information regarding one vacancy received after publication of the agenda	Chief Executive

The following report replaces the report included with the main agenda.

Agenda Item Number	Page	Title	Reason	Officer Responsible For Late Report
12	26 - 33	REVISED STRUCTURES FOR PROGRAMMES AND EXTERNAL FUNDS, PROJECT DELIVERY TEAMS, AND THE FUTURE OF STRATEGIC HOUSING ROLE (MAJOR PROJECTS DELIVERY)	Report revised after publication of the agenda	Corporate Director (Regeneration)

CABINET

**Pay Inflation and Early Termination of Employment
Policies
17th February 2009**

Report of Chief Executive

PURPOSE OF REPORT			
To seek Cabinet's views on pay inflation for 2009/10 and the application of Redeployment and Early Termination of Employment Polices.			
Key Decision	<input type="checkbox"/>	Non-Key Decision	<input type="checkbox"/>
		Referral from Cabinet Member	X
Date Included in Forward Plan			
This report is public			

RECOMMENDATIONS OF COUNCILLOR BRYNING

To follow.

1.0 Introduction

1.1 Pay Inflation

Councillor Mace has requested that a report is produced for Cabinet in respect of the options for zero pay inflation for 2009/10.

The draft budget as reported to Cabinet in January contained provision of around £442,000 for 2009/10, which is equivalent to a 2% increase in pay with effect from 1st April 2009. Clearly though this budget provision will be affected by the various savings options being considered by Cabinet, where reductions in staffing levels are involved.

Annual increases in pay are negotiated between the national Employers' Organisation and national Trade Unions representing employees. Attached at **Appendix A** is a letter received in November last year concerning the 2009/10 pay negotiations

Of the other Local Authorities in Lancashire, it is understood that most have provided for percentage increases in the range 2% to around 2.5%.

1.2 Voluntary Redundancy

Councillor Mace has requested that the issue of voluntary redundancy is addressed.

One of the mechanisms available to the City Council to achieve reductions in the Employee Establishment is by using voluntary redundancy. Voluntary redundancy brings initial expenditure, but medium term savings as the person leaving the Council is not replaced. The Council's current policy with regard to Voluntary Redundancy is included in its Early Termination of Employment Policy referred to below.

1.3 Review of Early Termination of Employment Policy and Redundancy Policy

Cabinet, at its meeting held on the 09 December 2008, resolved at Minute No. 103 to commission North West Employers' Organisation (NEWO) to review its Early Termination and Redeployment Policies. The Policies and the comments of the NWE0 are attached as **Appendices** to this report.

2.0 Proposal Details

Cabinet are asked to consider these issues and formulate any proposals.

3.0 Details of Consultation

3.1 Trade Union consultation has commenced in relation to the issues set out in this report.

4.0 Options and Options Analysis (including risk assessment)

4.1 Pay Inflation

- (a) Option 1 – Take no further action. The risk is that, at this stage, we do not know whether the National Agreement on pay inflation will match budget provision. However, it is not possible at this stage to estimate the outcome of national pay inflation.
- (b) Option 2 – Adjust the amount included in the budget. The City Council is already at the lower end of pay inflation assumptions, however, when compared with other authorities, and coupled with this, the Council is facing greater financial risks generally in terms of its budget proposals for next year, than has been the case in recent years.
- (c) Option 3 – Lobby National Employers to introduce a zero pay inflation increase across the Local Government workforce.
- (d) Option 4 – Begin negotiations to remove Lancaster City Council from the National Pay Agreement and instead agree an approach through local pay bargaining. This is a complex process and it is not possible to identify timescales. There is a high risk of industrial relations problems.

There is no specific preferred officer option, but Officers would not recommend Option 2, given the financial risks outlined above. Furthermore, Officers would not recommend Option 4 as being realistic within the timescales required for setting the 2009/10 revenue budget. Clearly, whilst the financial and budgetary aspects of pay are a matter for Cabinet, the terms and conditions on which staff are employed are a matter for the Personnel Committee, and if options 3 or 4 were to be pursued, then Personnel Committee should be involved.

4.2 Voluntary Redundancy

- (a) Option 1- Offer voluntary redundancy as an approach to people in posts “affected”.
- (b) Option 2 – Offer voluntary redundancy to people in those Service areas “affected”.
- (c) Option 3 – Offer the opportunity to apply for voluntary redundancy to all post holders apart from those in areas already identified as priorities. For example, refuse collection and street cleansing.
- (d) Option 4 – Offer the opportunity to apply for voluntary redundancy to all post holders.

The officer preferred options are 1 or 2. These approaches fall within the scope of the Council’s Early Termination of Employment Policy, and represent least risk (including financial risk) to the Council, of all the options outlined. On the other hand, options 3 or 4 would require a review of the general approach set out in the Policy, and this would need to be considered by Personnel Committee as part of any review of the Policy.

4.3 Review of HR Policies

- (a) To request Personnel Committee to review its Redeployment Policy and Early Termination of Employment Policy. Officer comments on the work of the NWE0 would be included in any report to Personnel Committee. Furthermore, if voluntary redundancy requests were sought in line with any of the options outlined above, the timing of such actions would need careful consideration, in view of any Policy review.

RELATIONSHIP TO POLICY FRAMEWORK

Policy of Council Tax being more than a 4% increase in 2009/10

CONCLUSION OF IMPACT ASSESSMENT

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

None arising directly from this report.

FINANCIAL IMPLICATIONS

The January draft budget projections for 2009/10 includes an estimated 2% pay increase, equivalent to £442,000, as referred to above, but this will be affected to some degree by Cabinet’s other budget proposals.

It is not possible to quantify the savings associated with any Voluntary Redundancy exercise at this time as there would also be initial costs involved and these would be dependant on the individual and which members of staff were involved. The existing Policy provides in detail for the financial considerations that must be assessed in dealing with any such

applications. It is clear, however, that in reducing the establishment, the Council would face significant one-off costs and potential funding for such costs is covered in the Budget report elsewhere on the agenda.

SECTION 151 OFFICER'S COMMENTS

The s151 Officer would advise that a review of HR policies would allow the financial aspects to be re-appraised. Ultimately there needs to be an acceptable balance between the interests of affected staff, affordability (from the Council's perspective), and the interests of local tax payers.

Should a review of HR policies be undertaken, ideally this should be completed as soon as possible (other workloads permitting), or at least within a defined timetable, in order that a clear understanding of any financial changes can be gained. This may well affect individuals' interests also – as any change or potential change in policy may influence their views regarding voluntary redundancy, depending on what is on offer.

Generally though, it is highlighted that for wider voluntary redundancy invitations, it can be the case that interested individuals tend to be those who have more years' service, or who may well be considering alternative employment in any event. In such cases, VR may well not be the most cost-effective means by which to achieve reductions in staffing levels. These sorts of considerations would be addressed through the application and any review of policy, however. Finally, in addition to the comments made by NWE0, the s151 Officer would advise that any Redundancy provisions in future HR policy should include clear details of the selection process, to help protect the Council's financial interests (as well as individuals).

LEGAL IMPLICATIONS

There are no legal implications directly arising from this report, however further consideration of these matters will be required (in terms of existing policies) if it is determined to pursue these proposals.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments at this early stage of the proposals.

BACKGROUND PAPERS

Cabinet report and minutes of 09 December 2008.

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Ref: CE/ES/Cttees/Cabinet/17.02.09

Contact: Heather Wakefield 020 7551 1329

To: Local Authority Chief Executives

13 November 2008

Dear Chief Executive

NJC Pay Award 2009-2010

Date received	17/11/2008
Action	OK/ST

The three NJC unions – UNISON, GMB and UNITE – are writing to you to ask you to focus your Council's attention on the NJC pay award for 2009-2010. We will shortly be lodging the claim on behalf of our members and would like to ensure that we can reach agreement this year without the need for industrial action or the sort of damaging dispute that has resulted from this year's below-inflation offer. You will know that we are seeking a peaceful resolution to the 2008 pay dispute by reference to arbitration.

As the three unions we have agreed that the claim for 2009-10 should be for a substantial increase, at least at the level of real price inflation, with additional increases for the lower paid. We believe that this claim is fair and is designed to enable our members to maintain their current standard of living and to rectify low pay at the bottom of the scale. **We are asking you to ensure that your council is able to meet that claim.**

As you know, the offer/award to our members this year did not come close to compensating them for cost of living increases and their pay has lost value. They are already the worst paid group within the public sector, with pay on the lowest pay point falling well behind that in the NHS, further education, higher education and support staff in police and probation. Equivalent jobs higher up the scale such as social workers and nursery nurses are also relatively poorly paid.

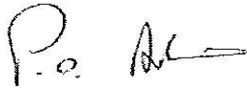
As unions we support the need for more joined-up public services which will improve to meet the real needs of service users. However, our members increasingly find themselves working alongside colleagues from other sectors on better pay and conditions. Annual leave and parental rights also trail behind in local government.

Local government needs to tell its workforce – one that has delivered consistent improvement over the last ten years – that it is valued and recognised for the great job it does. This year has been a damaging one for them and the image of local government. **We trust that you will budget for an increase this year that at least keeps pace with increases in the cost of living and take action to deal with poverty pay for the lowest paid.**

With best wishes,



Heather Wakefield
UNISON



Pete Allenson
UNITE

Brian Strutton

Brian Strutton
GMB



EARLY TERMINATION OF EMPLOYMENT POLICY

**LANCASTER
CITY COUNCIL**

Promoting City, Coast & Countryside

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Early Termination of Employment Policy

Introduction

This Policy sets out the Council's approach to the early termination of employment of its employees, and to the award of compensation to those employees whose employment is terminated early, either on the grounds of redundancy or the efficiency of the service. The Policy applies to all employees of the Council.

For the purposes of this Policy, early termination occurs where an employee's employment ceases before the age of 65, the normal retiring age at which retirement benefits become payable. Early termination may result from actions taken by the Council or be granted in response to a request by an individual employee.

This Policy has been drafted in accordance with the Local Government Pension Scheme Regulations 1997, and the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, and constitutes the Council's Policy Statement under Regulation 7 of the 2006 Regulations.

In formulating this Policy, the Council has had regard to the extent to which the exercise of its discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service, and has satisfied itself that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

The Council's view is that early termination of employment should be seen as an exception rather than a norm, although it recognises that there may be circumstances where early termination of employment is unavoidable, and circumstances where early termination may benefit the Council and be acceptable to the employee.

1. Ill-Health Retirement

Where an employee is deemed by an independent medical practitioner to be permanently incapable of performing the duties of their employment, or any other comparable employment with the Council due to ill-health, the employee will be entitled to an ill-health pension and lump sum. These will be based on length of membership of the Local Government Pension Scheme (LGPS), and the Council has no discretionary powers with regard to compensation.

2. Normal Retirement Age

The Council's normal retirement age is 65. For employees who were active members of the LGPS on the 1st October 2006, normal retirement date (i.e. the date at which an employee's pension can be paid without reduction and without capital cost to the Council) is now 65. This follows a removal of earlier Regulations which allowed a protected normal retirement date for employees who joined the LGPS before the 1st April 1998.

3. Early Retirement With Reduced Pension

Under LGPS regulations, however, employees aged 50 or over may request to retire early and receive their annual pension and lump sum before the age of 65. If the employee elects to receive benefits before the normal retirement date, the benefits will normally be reduced to reflect the costs of the pension coming into payment early, although under the Regulations, transitional protection arrangements apply in certain situations. There may be a capital cost to the Council, and in that

event the Council's consent will be required. In such cases, in considering whether to give its consent, the Council will consider the individual circumstances and any costs that will be incurred by the Council and how these can be met. Consent will only be given if this is in the interests of the Council.

4. Redundancy

As a matter of general law, a redundancy situation arises:

- (a) Where the employer has ceased, or intends to cease to carry on the business for the purposes for which the employee was employed, or has ceased, or intends to cease to carry on that business in the place where the employee was so employed; or
- (b) Where the requirements of the business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in a place where the employee was employed by the employer, have ceased or diminished or are expected to diminish.

Whilst the Council recognises that, on occasions, policy decisions will necessitate the need to achieve a reduction in the number of its employees beyond the level that can be achieved beyond natural turnover, it will take all possible steps to avoid compulsory redundancy. The Council's Redeployment Policy is particularly relevant in this respect and should be read together with this Policy.

However, in the event that compulsory redundancy is unavoidable, the Council will calculate redundancy pay using the statutory formula for the time being in force, currently under the Employment Rights Act 1996, but using the employee's actual weekly pay rather than any statutory maximum figure for weekly pay. In accordance with statute, a redundancy payment will only be made where the employee has at least two years' continuous service, and the maximum service that can be taken into account is twenty years. For the purpose of the calculation, continuous employment will be the aggregation of all continuous local government and related employment defined within the Redundancy Payments (Continuity of Employment in Local Government etc.) (Modification) Order 1999 (as amended).

5. Voluntary Redundancy

Where a redundancy situation, as defined above, exists, an employee may apply for voluntary redundancy.

In the circumstances of voluntary redundancy, the terms of the Redeployment Policy will not apply to the applicant employee. Further, it will not be open to an employee who has unsuccessfully sought redeployment in a redundancy situation to subsequently apply for voluntary redundancy.

If the application for voluntary redundancy is granted, the employee will receive an enhanced redundancy payment which will be calculated using the statutory redundancy formula, but using the employee's actual weekly pay rather than any statutory maximum figure for weekly pay, and applying a multiplier of 2.2 to the statutory formula. This provides for compensation to a maximum of 66 weeks' pay. In accordance with statute, a redundancy payment will only be made where the employee has at least two years' continuous service, and the maximum service that can be taken into account is twenty years. For the purpose of the calculation, continuous employment will be the aggregation of all continuous local government and related employment defined within the Redundancy Payments (Continuity of Employment in Local Government etc.) (Modification) Order 1999 (as amended).

6. Termination in the Interests of the Efficient Exercise of the Authority's Functions

Early termination of employment in the interests of the efficient exercise of the Council's functions does not require a redundancy situation to exist, and does not require that a post be deleted from

the Council's Establishment. It is impossible to define conclusively "the interests of efficiency". However, this might include circumstances where changes beyond the individual employee's control have led to inefficient discharge of a function, or where the retention of an employee is preventing the introduction of changes in structure or practices that would improve efficiency. Early termination on the grounds of efficiency will not be granted as a substitute for disciplinary action, or for action on the grounds of capability where such action would be justified.

The Council believes that termination in the interests of efficiency will be rare. Generally the Council will not exercise its discretion to pay compensation where employment is terminated early on efficiency grounds. However, individual cases will be considered on their merits.

If compensation is being considered or if there are pension costs arising from the termination, Service Heads must be able to demonstrate how they intend to make the required efficiency savings and fund the early termination.

7. Employees aged 50 and over

In addition to the compensation payments specified above for termination of employment on the grounds of redundancy or efficiency, employees aged 50 or over who have at least three months' membership of the Local Government Pension Scheme and whose employment is terminated on the grounds of redundancy or efficiency, will receive immediate payment of an unreduced pension and lump sum based on their accrued contributory service at the date their employment is terminated.

8. Process for applying for Early Termination (Redundancy or Efficiency)

Redundancy (or potential redundancy) situations will be identified initially by Service Heads, in consultation with Directors, and linked to the Council's corporate and business planning arrangements, or other emerging changes in business needs. In doing so, Service Heads will advise and consult with Human Resources and Financial Services.

Potential situations for terminating employment in the interest of efficiency will also be identified in this way.

Subject to Human Resources' confirmation of the situation, and Financial Services' confirmation of the financial implications, Service Heads will then notify staff affected (or potentially affected) staff and where appropriate, seek applications for voluntary termination on the relevant grounds. Wherever possible, volunteers will be sought, rather than resorting to compulsory redundancy

An employee who is considering the possibility of applying for early termination on either redundancy or efficiency grounds should first speak to the appropriate Service Head on a confidential basis. The Service Head will then consult Human Resources and Financial Services as appropriate, together with the relevant Corporate Director, and a decision will be made as to whether or not the application would be supported in principle.

Employees who are members of a recognised trade union are strongly advised to discuss their application with their trade union representative at an early stage in the procedure.

Employees may also wish to contact Human Resources for information about redundancy/compensatory pay and pension benefits (if appropriate). However, Human Resources staff are not able to advise on pension matters and further information regarding pension benefits may be obtained from Lancashire County Council, as the administering body. Seeking such information will not commit the employee, and the request or application may be withdrawn by the employee at any stage.

In the event that an employee decides to formalise an application for early termination, whether on grounds of redundancy or efficiency, the request should in the first instance be made in writing to

the Service Head stating the date on which it is requested that the employment should terminate. A copy of the letter should also be sent to the Human Resources Manager.

All such formal applications, which involve the early payment of pension benefits, will be referred to Management Team for corporate consideration, and if supported in principle by Management Team, will then be referred to the Personnel Committee for decision. Applications, which are part of minor structural reorganisations and only involve employees aged under 50 with no pension costs, will be considered under the Scheme of Officer delegation.

If Management Team does not support an application, or if Personnel Committee does not grant the application, the employee will be informed in writing. There is no right of appeal against such decisions,

9. Financial considerations

In identifying potential redundancy or 'efficiency' situations, Service Heads must consider all feasible options of managing the situation. The overall aim is to minimise any adverse impact on service delivery and on affected employees, whilst minimising also any costs arising through the application of this policy.

Where there are options available, any costs must be recovered over (at most) a 3-year payback period from the date of termination of employment, but this will be shortened if necessary to take account of relevant circumstances, e.g. if staff affected attain their Normal Retirement Date within a 3- year period. The payback period will be agreed with Financial Services.

It is recognised that some situations, such as redundancy, may meet the 3-year payback period but have high up-front costs being incurred in year 1 (i.e. over and above available service budgets). Where services cannot meet such year 1 costs from their own budget provisions, but where the overall pay-back requirement can be met, consideration will be given to using any corporate savings, if available, to manage the position. Information on this aspect would be prepared by Financial Services for incorporation into the report to Management Team. Should any associated applications be supported, then it is possible that Cabinet approval may be required for such use of savings, depending on their nature.

In considering applications for voluntary redundancy, the Council will consider the financial savings that will arise from the deletion of the post, and the workload implications of deleting the post. The cost of the compensatory payment, together with any costs arising from any immediate entitlement to pension, must be able to be recovered from such savings within the agreed payback period.

In considering applications for termination in the interests of efficiency, the Council will consider the amount of efficiency savings that will accrue from allowing the termination to take place, and must be satisfied that the cost of any compensatory payment being considered, together with any costs arising from any immediate entitlement to pension, will be recovered from such savings within the agreed payback period.

In considering applications for early retirement on reduced pension, where there would be a cost to the Council, the Council will consider the amount and appropriateness of the savings options put forward, and must be satisfied that any costs arising from any immediate entitlement to (reduced) pension, will be recovered from such savings within the agreed payback period.

10. State Benefits

The Council recommends that any employee whose employment with the Council is terminated should request information from the local office of the Department for Work and Pensions about state benefits. Entitlement to state benefits e.g. Jobseekers Allowance, Unemployment Benefit and Income Support and other short and long term benefits may be affected by a number of factors. Individuals are advised to check their own personal position in relation to the claiming of

benefit.

11. Review of Policy

This Policy will be regularly kept under review in the light of operating experience, changes in legislation, and the financial position of the Council. If changes are made to the Policy in so far as it relates to discretionary compensation for the early termination of employment, a statement of the amended policy will be published, which will take effect one month after the date of publication.

Desktop Review of Lancaster City's

Early Termination of Employment Policy (1 May 2007)

Prepared by: Andrew Manson, North West Employer

Date: January 2009

Relevant Regulations

The third paragraph of the policy's introduction should include reference to The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007. In summary these regulations include rules on:

- Payment of pension in the event of redundancy or efficiency termination, if
- The employee is aged 55 or over at the date of leaving, or
- The employee is aged 50 or over at the date of leaving and he/she was a member of the LGPS at 31 March 2008, and the date of leaving is before 31 March 2010.
- The power to augment an employee's membership of the LGPS by a maximum of 10 years (note: a compensatory lump sum payment cannot be paid if augmented service is granted).
- The power to award additional annual LGPS pension of up to £5000 (note: a compensatory lump sum payment may still be paid if additional pension is awarded).
- Arrangement for third-tier ill-health retirement benefits

Ill-health Retirement

There is no mention of the new three—tier provision of ill-health retirement benefits – e.g.

Tier 1	No reasonable prospect of the employee obtaining gainful employment due to ill-health before NRD
Tier 2	Cannot obtain gainful employment within three years of leaving due to ill-health but likely to be able to do so before NRD
Tier 3	Can obtain gainful employment within three years of leaving

Early Retirement with Reduced Pension

The employer's consent is required if the employee wishes to retire before aged 60 (not just in capital costs cases). The earliest age an employee can

request to retire is 55 (or 50 if the employee is aged 50 or over at the date of leaving and he/she was a member of the LGPS at 31 March 2008, and the date of leaving is before 31 March 2010).

Redundancy

Third paragraph – consider changing ‘all possible steps’ to *all reasonable steps*.

The factors taken into account for the calculation of redundancy payments, including the use of an actual week’s pay, are consistent with the practice adopted by most other local authorities.

Voluntary Redundancy

The formula used to calculate enhanced redundancy payments is, I would conclude, within the ‘normal’ range of what is expected from local authorities. Within Lancashire, a number of other District Councils use a 2.2 multiplier (capped at 66 weeks) as does the County Council. However, there is at least one authority that does not appear to apply any multiplier and another who previously reported a multiplier of 3.46.

Under Lancaster’s policy, the 2.2 enhancement is only afforded to those who volunteer for redundancy. Employees whose redundancies are compulsory are only entitled to statutory redundancy pay (based on an actual week’s pay). Whilst this practice is not unlawful, it is also not particularly common (no similar practice was found in the policies from other Lancashire authorities seen in the course of this review). If this provision is to be retained, it might be helpful to include a brief rationale explaining why the policy differentiates in such a way.

Termination in the Interests of Efficiency

This paragraph is consistent with the approach generally adopted by other authorities.

Note: Compensation payments for efficiency terminations are not exempt from the Age Regulations and therefore should be age/length of service neutral unless objectively justified.

Employees Aged 50 and Over

This paragraph should be updated in line with the 2007 Regulations – see ‘Relevant Regulations’ above.

Conclusion

The policy is in need of some updating, in particular to reflect the changes introduced by the 2007 Regulations. The discretionary aspects of the policy fall largely within the ‘normal’ range of what other authorities are doing. However, it is also probably true to say that there are more authorities that

use a lower redundancy pay multiplier (2.2) than there is who use a higher one.

Consideration should also be given to and, if necessary, explaining why employees facing compulsory redundancy are excluded from receiving enhanced redundancy payments (although in practice this is likely to be few in number as the Redeployment Policy allows employees to opt for voluntary redundancy in the event of redeployment being unsuccessful).

Consideration should also be given to including a statement on pension augmentation, the award of additional pension of up to £5000 and the Council's policy on flexible retirement (or a reference to other documents if these are included elsewhere).



POLICY STATEMENT

Lancaster City Council recognises the importance of creating as secure a working environment as possible for employees and states that it will take steps to ensure continuity of employment through the planning of resources for effective, economic and efficient provision of its services to the local community.

However, in recognising the need to comply with competitive criteria and bearing in mind the continuing changes in Local Government, it is acknowledged that adjustments may be necessary from time to time to staffing levels within Services of the Council.

In seeking to minimise the impact on its employees, the Council will commit to making every reasonable effort to offer redeployment opportunities to those employees whose jobs have effectively disappeared or are likely to disappear as a consequence of any review of Council Services.

The Council recognises that the Trade Unions have an important role to play in the implementation of a redeployment policy and will involve representatives of relevant Union(s) in all aspects of the redeployment procedures set out in this policy and will advise all employees affected of the availability of their Union representative's support throughout the procedure.

INTRODUCTION

It is jointly accepted that the successful operation of this redeployment policy and procedure depends upon the goodwill and co-operation of those involved.

The effect of an impending redeployment on an individual may be significant, placing that employee in a difficult situation. Managers will be committed to dealing with employees in a sensitive and sympathetic manner and will be offered training in the implementation of this policy if appropriate.

It is intended that these procedures will apply to 'affected employees', i.e. those employees whose jobs are likely to disappear as a result of a Service Review. The names of 'affected employees' will be kept on a Redeployment Register, which will be maintained and held by the Head of Personnel Services.

IDENTIFICATION OF AFFECTED POSTS

In order to ascertain which posts within Services are 'affected' it will be necessary for Directors and Service Heads to review delivery of service and to make appropriate recommendations for a reduction in posts. Employees will be treated as 'affected' when it becomes known that their service will be affected by a reduction in the number of posts within it. Before any specific post is identified as redundant, there will be prior consultation with the relevant Union(s).

REDUNDANCY

It is the Council's intention to maintain its policy of no compulsory redundancy.

It is not, therefore, intended that the application of this policy and procedure should result in any employee being declared redundant against their wishes. However, it must be recognised that, very occasionally, when Services are reviewed it may not always be

possible to provide reasonable, suitable and, most importantly, acceptable alternative jobs for those employees whose jobs are at risk. If all attempts at successful redeployment fail in respect of a particular employee, then that employee should be given as an alternative choice, the option of volunteering for redundancy.

NOTIFICATION OF ALTERNATIVE EMPLOYMENT OPPORTUNITIES

Wherever possible, the Council will offer suitable alternative work to 'affected' employees. Such offers will depend on the availability of alternative posts and on the suitability of the employees for these posts. In assessing suitability, Directors and Service Heads will consider not only existing skills and experience but also potential, after retraining if necessary, to perform to a satisfactory standard in the new job. Each 'affected' employee will be asked to complete a generic job application to be kept by Personnel Services on a central file and will be interviewed by a senior member of the Personnel staff to determine what type of work might be suitable and of interest. In the event of a vacancy arising, the following procedure will apply:

1. When a vacancy is identified, the Service Head will notify Personnel Services of the details. The vacancy will be considered by the Service Head in consultation with the Head of Personnel Services to determine whether or not the vacancy should be filled in its present format and, if appropriate, the means for filling it.
2. Details of 'affected' employees will already be held centrally by Personnel Services and will be made available to Management Team or individual Directors on a regular basis.
3. If the relevant Director considers that the post offers a potential redeployment opportunity for a particular employee or group of employees from the Redeployment Register, an interview or interviews will be arranged. In the interests of fairness for all staff, the Council will not normally 'ring fence' 'affected' employees for job opportunities which attract a salary which is more than one scale above that of their present post.
4. The interview(s) will be conducted by the appropriate Service Head or Senior Manager and a member of Personnel Services. A representative of the appropriate Trade Union will be welcome to attend any interview at the interviewee's request.
5. If, after consultation with the relevant Union(s), a vacancy does not appear to offer an appropriate or realistic opportunity for an 'affected' employee, it will be considered for filling in the normal way. In addition to other internal and/or external candidates any 'affected' employee may also apply. Such applications may be considered in advance of others received and an 'affected' employee will always be offered an interview. The 'affected' employee will be notified of the outcome in writing. All other applications received will then be considered on merit.
6. If, after interview, a post is offered to an 'affected' employee it will be for a trial period. The trial period will last for up to thirteen weeks during which time redundancy provisions may continue to apply should the employee wish to retain the option of volunteering for redundancy. (Note: redundancy provisions may continue to apply only in cases where the suitability of the alternative job offer [i.e. the trial period] is in some doubt, and this should be stated at the outset where possible.) After a period of thirteen weeks the redeployment will normally be confirmed as a permanent job offer. During the trial period, an employee may request that their name be retained on the Redeployment Register and ask to be notified of any subsequent redeployment opportunities. Once a redeployment has been confirmed, however, the name of the employee will be permanently removed from the Register.
7. If a trial period is unsuccessful, the recruiting Director or Service Head will have the discretion to offer the post to another 'affected' employee. If, after consultation with the relevant Union(s), there is no other suitable 'affected' employee, the Director or Service

Head may recommend that the post is advertised in the normal way or that the post remain unfilled in the light of circumstances at the time.

OFFER OF ALTERNATIVE EMPLOYMENT

Where it is possible to offer a redeployment opportunity to an 'affected' employee, the following procedure will apply:-

1. Any redeployment offer made to an employee will be made in writing and will be for a period of up to thirteen weeks. Any offer will highlight any obvious areas for training and development which might cast doubt on whether the offer is a suitable one.
2. During the trial period, any retraining necessary to enable the employee to establish suitability in the new post will be arranged. In addition, the Line Manager of the redeployee will hold weekly meetings with him/her to discuss progress in the new post. This is to ensure that if Directors and Service Heads or the employee feel unable to support permanent redeployment into a post then this does not come as a surprise to those involved and that they have the opportunity to comment.
3. If, in the opinion of the Director or Service Head and following consultation with the appropriate Trade Union and the employee concerned, the employee has failed to demonstrate suitability for the post during the trial period, the employee will return to their original post (if still available). Alternatively, the employee will be deployed elsewhere on a 'surplus to requirements' basis until another redeployment opportunity is identified. It is intended that such a period, if necessary, be kept to an absolute minimum length of time.
4. The Council recognises the need to resettle 'affected' employees as quickly and effectively as possible. It will normally be the policy of the Council to offer an 'affected' employee two redeployment opportunities whenever possible. Failure to effectively redeploy an employee after two attempts will normally result in the employment being terminated on redundancy grounds. However, in certain circumstances, where the Council believes that the alternative offers made have been reasonable and the employment is **terminated**, redundancy payments may not apply. In such cases appropriate notice will be given and it will be the failure to accept the reasonable offer of alternative employment which will result in termination.
5. If the Director or Service Head considers that the employee has demonstrated suitability for the post, the position will be offered on the basis of the terms and conditions currently attached to that post. Salary protection will be afforded to that employee in accordance with this policy at the time.
6. In considering the basis on which the new employment is to be offered, Directors and Service Heads should be aware of the proposals for 'matching' outlined in the Protection of Earnings section contained within this Policy.
7. If an employee elects to resign at any time during the trial period or after taking up a permanent post after successfully completing the trial period, the employment will normally be considered to have ended by reason of resignation. In addition, if an employee refuses offers of reasonable alternative employment carrying with it a trial period or refuses a definite offer of alternative employment, the employment will again normally be considered to have terminated by reason of resignation and not redundancy.

RETRAINING DURING TRIAL PERIOD

The Council is committed to developing an efficient and effective workforce. It is unlikely that an 'affected' employee will possess all the necessary skills and experience to transfer directly

to a different job without some retraining being necessary. The duration and extent of the retraining will vary and may in some cases influence whether or not an offer is made. A trial period will last for thirteen weeks unless on an earlier date it is agreed between the recruiting Director or Service Head and the employee concerned that the trial has either succeeded or failed.

PROTECTION OF EARNINGS

1. Introduction

Lancaster City Council recognises that a redeployment policy and procedure benefit both the Authority and its employees by providing a greater sense of job security in times of uncertainty and thereby improving staff morale and increasing efficiency. The Council has stated its intention to make every effort to assist employees who face compulsory redeployment. In order to facilitate the movement of staff facing compulsory redeployment into alternative establishment posts, a degree of protection of earnings will apply to employees who find themselves disadvantaged as a result of accepting redeployment as the only reasonable alternative to compulsory redundancy.

2. Purpose of Protection of Earnings

It is intended that this policy will provide:

- A secure and settled period during which employment more in line with the employee's abilities and former earnings potential will be sought;
- Some protection over a reasonable period to cushion the employee from the effects of job loss and loss of earnings;
- This is directed at easing the change rather than exempting staff from it.

3. Application

A protection arrangement will apply to employees of the Council who are in a post which is deleted and who are redeployed into a post in which the maximum rate of pay is lower than their existing rate of pay. Contractual earnings only will be taken into account in calculating an employee's existing rate of pay. **During a formal trial period for any job an employee will continue to be paid the rate of pay attached to his/her former post.**

On confirmation of the redeployment the employee's salary will be 'frozen' and the following protection arrangements will apply:

Year One

The contractual rate of pay attached to the employee's previous post will continue to be paid for a twelve month period upon the offer and acceptance of the redeployment.

Year Two

Fifty per cent of the difference between the employee's contractual rate of pay in the previous post and the maximum salary of the new post will continue to be paid for a further twelve months.

Year Three

Twenty-five per cent of the difference between the employee's contractual rate of pay in the previous post and the maximum salary of the new post will continue to be paid for a period of twelve months.

(The protection in Years Two and Three will not apply if the maximum salary attached to the new post has overtaken the maximum salary of the former post.)

Year Four

On completion of three years in the new post the employee will revert to the rate of pay of the post into which he/she has been redeployed, at the relevant scale point. The provisions of this policy in respect of protection of earnings will apply until:

- a period of three years has elapsed; or
- the contractual earnings of the new post exceed the protected earnings; or
- the employee is appointed to a post in which contractual earnings equal or exceed the protected earnings salary; or
- the employee moves as a result of their own application to a post carrying a lower earnings level; or
- the employee is offered but declines to accept a suitable permanent post within the Authority at or above the protected level; or
- if for any reason the employee leaves the service of the Council.

PROMOTION OR REGRADING DURING PROTECTION PERIOD

If an employee is promoted or regraded during the protection period, he/she will continue to receive the protected rate of pay until the end of the protection period unless the new rate of pay is higher than the protected rate of pay, in which case the new rate of pay will apply.

MATCHING

The Council is committed to paying its employees appropriately for the work they carry out. During the three year period of protection, the Authority will make every effort to identify a further post which appears to be suitable to the skills of the 'affected' employee and in which the rate of pay is at or near the protected rate of pay. If an employee refuses to accept a reasonable offer of alternative employment during the protection period, the Authority reserves the right to cancel the protection arrangement for the employee concerned.

FURTHER REDEPLOYMENT DURING THE PROTECTION PERIOD

If during the protection period, the post into which an employee has been redeployed is deleted, at the end of the period of notice relating to that deleted post, the employee will revert to the original rate of pay prior to the protection arrangements coming into effect. If a further redeployment is offered and accepted then in the interest of the employee the protection period will be re-cast in accordance with Council policy.

PROTECTION OF OTHER TERMS AND CONDITIONS

This policy is intended to provide a protection arrangement against **loss of contractual earnings and financial loss**. It will not normally be the policy of the Council to protect other terms, conditions and benefits attached to an employee's former post. Where withdrawal of other benefits is appropriate, contractual notice of the changes to take effect will be given to the employee concerned. Where the redeployed post carries a lower level of leave entitlement, that lower level of entitlement will only come into effect on the 1st April following the redeployment. Where the employee has the benefit of a car lease and the deployed post does not carry such an entitlement, the employee will continue to have the benefit of the car lease for the balance of the then existing lease period. Should the employee wish to give up that car lease, no financial penalty will be payable by the employee.

Where an employee requests the Council to issue a "Certificate of Significant Material Change", this will be granted.

APPEALS

1. Appeals arising from the implementation of the protection of earnings section of this policy will be dealt with in accordance with the Council's Grievance Procedure, within which the decision of the Members' Appeals Panel is final.
2. Appeals arising from the termination of employment of employees will be dealt with in accordance with the Council's Disciplinary Procedure for the time being in force.

Desktop Review of Lancaster City's Redeployment Policy

Prepared by: Andrew Manson, North West Employer
Date: January 2009

Although employers are under a duty to avoid or minimise redundancy situations by considering affected employees for available and suitable alternative employment, it should be noted that there is no legislation that deals specifically with redeployment situations or protection of earnings (other than the statutory 4-week trial period and some maternity/adoption leave situations). Therefore, policy detail relating to redeployment is largely a matter for local agreement.

Comments on Lancaster City's Redeployment Policy are separated into four headings plus a conclusion.

1. Trial Periods

The Council's policy states that 'a trial period will last for thirteen weeks unless an earlier date is agreed'. Our (limited) research would suggest that a trial period of this duration is at the top-end of what might be expected. Perhaps a more typical approach, particularly amongst District Councils in Lancashire, would be a trial period of at least four weeks which could be extended when reasonable to do so – e.g. because of a training need.

2. Time on Redeployment List

The Council's policy states that it will be normal policy to offer affected employees two redeployment opportunities wherever possible and failure to redeploy after two attempts will normally result in employment being terminated on the grounds of redundancy. Whilst this position is not unique, an alternative and seemingly more common approach is not to specify a 'normal' number of redeployment opportunities but to merely consider any suitable posts that arise during the notice period. The Council's policy, it would appear, in not specifying when notice of redundancy may be issued or how long an employee may remain on the redeployment list between or before 'trial periods', means that an employee could be on the redeployment list for 26 weeks (or more) before notice of termination is actually given.

(Note: the question of continuing or removing the distinction between compulsory and voluntary redundancy payments may also be relevant to this aspect of the Redeployment Policy - see Review of Early Termination of Employment Policy for detail).

3. Pay Protection

The Council's policy on pay protection for redundancy-related redeployment situations, in terms of duration and percentage, appears to be broadly consistent with the practice of many other authorities. However, some authorities limit the scope of pay protection to no more than 4 incremental points above the maximum of the lower graded job. It may also be helpful to indicate what aspects of pay are protected – e.g. shift allowance but not call outs payments.

The paragraph headed 'Further Redeployment During the Protection Period' states that an employee subject to further redeployment whilst pay is being protected will have future pay protected on earnings prior to the protection arrangements coming into affect. This could potentially lead to an employee receiving six more years' protection. I have not seen a similar provision in other authorities' policies and, in the absence of any explanation, would suggest that this is something that the Council may wish to consider further.

4. General Comments

The Policy seems to apply to all staff. Some authorities restrict access to 'generous' redeployment – for example, it only applies to staff who have more than one year's service.

The policy says that affected employees will always be offered an interview – even if the vacancy does not appear to offer a realistic or appropriate opportunity for the employee concerned. Consideration should be given to amending this so, for example, only affected staff who meet the essential criteria are guaranteed an interview.

The phrase, 'alternatively the employee will be deployed elsewhere on a surplus to requirements basis until another redeployment opportunity is identified' creates uncertainty over timescales and adds to the lack of clarity as to when dismissal notices should be issued.

The Parental and Maternity Leave Regulations require employers to offer employees who are in a redundancy situation and on maternity/adoption leave any available suitable alternative employment in preference to other employees. There is no requirement to include such a reference in a redeployment policy but it may be helpful to do so.

Some redeployment policies include a provision for 'slotting-in'. The process allows employees whose jobs in an old structure are the same as, or very similar to a job in the new structure, to be slotted-in without the need to go through any formal application/appointment process.

5. Conclusion

The policy is written in a way that seeks to absolutely minimise the risk of compulsory redundancies and was perhaps conceived at a time when the potential for larger-scale redundancies was not a reality. As a consequence, the policy is more generous, certainly in terms of timescale, than might

otherwise have been the case. The Council will need to review the provisions of the policy to determine whether it is fit for purpose in the present climate and strikes the right balance between the interests local authority, its communities and employees.



**Revised Structures for Programmes and External Funds,
Project Delivery Teams, and the Future of Strategic Housing
Role (Major Projects Delivery)
17 February 2009**

Report of Corporate Director (Regeneration)

PURPOSE OF REPORT			
To propose a new corporate approach, including the establishment of a central, corporate team, for the management of programmes and external funding, and project delivery.			
Key Decision	X	Non-Key Decision	Referral from Cabinet Member
Date Included in Forward Plan	12 January 2009		
This report is public			

RECOMMENDATIONS OF CORPORATE DIRECTOR (REGENERATION):

1. Approve of the re-structure of existing staff resource to create three new sections; (i) the external funding/programmes team, (ii) the regeneration Project Delivery Team, (iii) the Worklessness Team, and agree the budgetary provision identified in the report.
2. Approve the proposal to integrate Housing Strategy into the Local Development Framework (LDF) Team with Planning.

1 INTRODUCTION

1.1 This report proposes the establishment of a new corporate structure to deal with the growing and complex requirements of external funding and programme management, and also provides to re-structure the existing establishment to ensure a corporate/structured approach is taken in delivering subsequent regeneration projects that will result from the programme. The proposal has been developed in response to emerging policy changes, major anticipated opportunities for the District, the extreme likelihood of heavy reliance on external funding and the experience of the Council to date.

2 BACKGROUND

2.1 External funding is critical to the delivery of the ambitious objectives of the Council and represents a significant proportion of the Council's capital programme and revenue budget. At the present time, there are number of key factors that indicate the need for a formal corporate approach that maximises access to appropriate external funding, ensures that the required external funding can be managed to the rigorous standards required and provides corporate efficiency, cost effectiveness, high performance and good risk management. The

Council must also ensure that it has the right level of staffing in place to facilitate the delivery of any proposed regeneration projects, and the flexibility to react to new proposals as and when required.

2.2 Policy framework

The government's Sub National Review of Economic Development and Regeneration underlines the important role of Local Authorities and is explicit in its support for delegation of regeneration funds to Local Authority level and also in the delivery of projects. In recent discussions with North West Development Agency (NWDA) and Homes and Communities Agency (HCA), two of the Council's major funders, this is reiterated, but clearly depends on a number of conditions.

2.3 Economic Geography

It is expected that future funds provided by NWDA/Home and Communities Agency will only be considered where there is a natural economic geography and in many cases this will mean a partnership based approach across a number of Local Authority areas. However, in the case of Lancaster District there is a recognition that the economic geography is distinct and is tied primarily around the administrative boundary of the District, even though there are opportunities for partnership development around Morecambe Bay, the Irish Sea and the rest of Lancashire.

2.4 Clear strategy and priorities

Any external funding needs to be clearly linked to an agreed strategy and to have local support. NWDA and English Partnerships are currently working informally with the Council to develop detailed Investment Frameworks arising from the economic vision for the District, and are progressing the Housing Strategy and policy framework. The Regeneration Programme has been discussed at Council's Cabinet and by the LDLSP and the LSP have now endorsed the Regeneration Programme. The proposals are ambitious and will provide the framework for a possible delegation of funds as soon as this is possible.

2.5 Capacity

It will be a prerequisite that the Council, if it is acting as Accountable Body for external funds, can provide guaranteed management and delivery capacity. Currently, the Council has developed some approaches that have been recognised by funders as being of a high standard. However, the approach is not taken consistently across the Council, so there are varying standards. The Council also relies heavily on staff recruited for the duration of programmes, which, at times, has affected continuity and resulted in loss of critical skills and experience.

3 LOCAL DEVELOPMENTS

3.1 Regeneration plans for the District

Lancaster City Council and the Lancaster District LSP have recently considered the Regeneration Programme for the district, and a three year Action Plan has now been approved. The Council is the lead partner for a very significant proportion of the overall activity included in this. Most of this activity relies heavily on external funding from a range of sources and also management and delivery capability, strongly suggesting the need for the Council to build on its success to date but plan ahead to provide the firm structures and arrangements that will be necessary.

3.2 Corporate management

The Council has developed some very good arrangements for managing programmes and external funds but has done this reactively, often creating new structures and developing new processes from scratch as funding has been offered. This proposal is designed to bring together management resources for external funding, avoiding duplication but retaining valuable skills and experience. It also provides a vehicle to coordinate a range of complementary corporate management skills to achieve a joint, consistent and cooperative

approach to areas of work where there is significant overlap. This includes strategy/policy development (Forward Planning, Corporate Strategy), project and programme management (Corporate Strategy, Internal Audit) financial management (Financial Services), risk management (Financial Services Risk Manager) procurement (Financial Services Procurement Manager), performance management (Corporate Strategy) and delivery services across the Council.

There is already a move towards much more joint working between the current Regeneration Programmes Office and other services, which is proving to be extremely successful. This proposal has been developed in consultation with representatives of a number of these complementary services and the response has been extremely supportive with some specific helpful suggestions being added. Overall there is a strong feeling that this approach is needed and offers an exciting way forwards, and very tangible benefits.

4 DETAILED PROPOSAL

Details of this restructure proposal have been put to all affected staff and the consultation process is ongoing. The restructure, if progressed, will require the City Council to look at the Management structure and Cabinet will be aware that the Chief Executive is currently working on possible proposals for this.

4.1 Option 1

The proposal is to create three new teams with specific responsibilities for (i) programme management and external funds, (ii) regeneration project delivery, and (iii) worklessness, with effect from 1st April 2009.

(i) Programme management and external funds

The proposal suggests a core, established team, which can provide the capacity guarantees that will be required and can deal with the level of work that is known at this time. It assumes further development of close working relationships with other corporate services and an exchange of expertise with those services. It specifically suggests the transfer of the Projects and Performance Officer into the team to ensure that the approach to project management (LAMP) is integrated with project monitoring and vice versa and also reinforce the link with performance monitoring for all projects. In the case of other specific officers, where there are clear overlapping interests, it may be useful to arrange part-time secondments into the team to work jointly on key developments. This can be flexible and short term or ongoing, depending on the requirements. The way in which the proposed new team works with existing services has been developed in consultation and is flexible, adaptable and focused on achieving results.

This approach also offers the opportunity to capture the Council's contribution to the overall model and identify this as match funding, offering value for money to external funders whilst not incurring additional costs for the Council.

The philosophy behind this approach is very much about enabling strong delivery and achievements, supported by good management and sound processes. There is a very clear focus on end results and the presentation of the approach is centred on facilitation, improvement and cooperation.

(ii) Regeneration Projects Team

With regards to the actual delivery of major projects, the Council currently has officers who operate out of several different services, and provides for a mixture of core funded staff on permanent contracts, and externally funded staff on temporary, short term contracts.

The proposal is to organise officers into a core team within Planning Services. This would ensure that a consistent, corporate approach is taken to the delivery methodologies of all major projects. It will also provide for a strong core team who can facilitate working up the detail of regeneration projects, and provide capacity for delivery, whilst at the same time ensuring full conformity with the LDF. This team should also

include two posts currently allocated into Strategic Housing, which deliver housing capital projects in the Poulton and West End renewal projects. It is anticipated that this team would ensure a strong corporate direction is taken in delivering the requirements of the Council's approved Local Development Framework document, and will provide strong strategic direction in the Council's corporate regeneration agenda.

The proposal also provides to incorporate the City Council's Strategic Housing Officer and associated support (currently in Health and Strategic Housing) into the 'LDF' planning team, which aligns the work currently being carried out on the sub-national review.

(iii) Worklessness Team

A separate proposal is being made to continue the work of the Worklessness Team, and subject to an external funding bid to the LDLSP, it is anticipated that the team (currently within the West End delivery team) will work alongside the Council's current business development unit.

4.1.1 Benefits

The proposal offers the Council a number of benefits including:

- Coordinated strategy development across the Council, clear presentation of objectives and priorities
- Maximised access to external funds
- Maximised delivery of benefits, outcomes, performance
- Efficiency and cost effectiveness – achieving more with existing resources
- Joint working to develop streamlined processes that avoids duplication and utilises key skills and experience
- Added value
- Raising quality and managing risk
- Revising quality of delivery of projects
- Ensure early tie in of major projects to the Council financial and legal obligations.
- Provides flexibility of having a strong core team (using external sources only when required)

4.1.2 Risks

- The proposals being put forward require a re-grouping of some posts, and will also bring to an end the need for temporary posts. The proposal is also subject to external funding being successful.

4.1.3 Financial Issues

(i) Programmes Team

The structure provides that the City Council seeks to extend the temporary contract arrangement of officers, subject to future funding being made available from external funders. Such posts are essential in ensuring that sufficient capacity is in place to submit further, substantial funding bids in future years. It is anticipated that the NWDA bid will be made before March 2009 with negotiations already being carried out. As an interim measure, funding will be needed to be allocated on a temporary 6 month basis to permit staff to remain in post, until the NWDA determine the application for funding. The total costs of the proposed restructure on a 6 month basis are approximately £267,300 (this includes existing Council funding of £158,800). The additional staff costs of £108,500 arising from an unsuccessful bid would be covered by the Project Management Reserve.

It should also be noted that, should funding not be forthcoming from the NWDA, then the City Council will need to serve statutory notice of termination of fixed term contract posts, which will have a financial cost to the City Council of approximately £55,400.

(ii) Regeneration Team

A revised delivery timescale for current and new projects in accordance with new proposals to be submitted to funders is not likely to come on line for at least two years. In the meantime the Council continues to deliver a range of major high profile projects which rank the authority as a credible regeneration body. These include Luneside East, The Bailrigg Science Park, and Townscape Heritage Initiative II at Morecambe. At the present time it is envisaged that the existing core staff plus one additional post, will provide the sufficient capacity to manage this programme, work alongside the Local Development Framework Team to develop an Action Area Plan for Central Morecambe, and work up further projects in line with the Council Regeneration Programme.

Whilst there is a cost associated with providing any level of management service, this particular proposal is unusual in that it brings efficiencies in terms of existing Council resources as well as the potential to draw down a considerable contribution from external funding sources. As such, it is unlikely to create additional costs overall. It captures the current contribution of external funders to management costs which is considerable and has historically required only a very small contribution from the Council, allowing other resources to be focused on delivery.

Where additional funding is offered to support delivery of projects, the Council will have the opportunity to consider costs and benefits of this alongside any funding contribution. There is no automatic assumption that the Council will accept the Accountable Body role and Council decision making to determine this will be supported by internal appraisal and risk assessment in the normal way.

There will, inevitably, be a cost of terminating contracts, and these will need to be assessed, and, as detailed, there is a requirement to funding an initial 6 month period or less, subject to the NWDA making a decision on funding.

(iii) Worklessness Team

As detailed previously, a bid is being made into the LDLSP to continue the work of this team. In the meantime, Lancashire County Council has agreed to provisionally extend its current contract with the City Council with regards the Supporting People programme. This will effectively leave an initial gap in funding for the team of £29,300 for a 12 month period. Cabinet are therefore requested to support this 12 month gap funding through the Project Implementation Reserve.

It should also be noted that, should funding not be forthcoming from the LDLSP or Lancashire County Council, then the City Council will need to serve statutory notice of termination of fixed term contracts, which will have a financial cost to the City Council of approximately £35,000.

4.1.4 Legal Issues

Members will be aware that the current fixed term contract posts covered by these proposals are all on notice to terminate from 31st March 2009. Should Cabinet approve recommendation Option 1 in extending the posts relating to this report for 6 months, then this will be carried out as an extension to the existing fixed term contracts. If funding is not available, Lancaster City Council will need to find sufficient funding for termination of these contracts.

With all the proposed posts in the new structure, subject to funding approval, it is recommended that they are all made “permanent”, despite only 3 years funding possibly being available. The justification for this is that currently the City Council pays a “premium” on many fixed term contract posts, because, by their very nature, officers are usually happy to accept uncertainty about their permanent employment and take a larger salary to compensate. The law provides that any employee exceeding 2 years employment has the right to receive statutory redundancy payments on termination, which effectively means that

the City Council is currently paying “redundancy costs” to all staff to which temporary contracts are being terminated at a higher level than had the post been permanent.

On all the posts identified in the report, the salary quoted is existing salary and will be subject to any amendment as a result of the City Council’s Job Evaluation process.

4.2 Option 2

The City Council does not progress the proposed structure.

4.2.1 Risk

The City Council would find it more difficult to provide a coordinated approach to the Programmes and Regeneration teams. It would not be in the best position to bid for further regeneration funds from NWDA and HCA, and as such, the Council’s priority on regeneration may be affected.

The Council currently has contractual programme and project agreements with funders. Not having appropriate arrangements in place to manage this will significantly raise the risk of any clawback of external funds.

4.2.2 Benefits

There are few benefits in remaining with existing structures, particularly as the sub-national review of economic regeneration is progressing the consequence of this, as detailed in ‘Risk’, in that the City Council will have to have strong government structures in place to deal with rapidly changing agendas.

5 OFFICER PREFERRED OPTION

5.1 The officer preferred option is Option 1.

6 CONCLUSION

6.1 At the present time, national, regional and local factors combine to create enormous opportunity for the whole District to benefit from policy changes and economic and political factors. There is opportunity to see local decision making become very real with the role of Local Authorities being emphasised by the Government as central in both determining local objectives and enabling delivery of key services and interventions. Current market factors suggest a volatile period ahead during which the Council will need to be well informed and able to respond to needs in the District.

6.2 External funding, which has in recent years been closely guarded by regional agencies, now looks set to be delegated down to local areas that meet certain conditions. Lancaster District is very well placed to achieve this but will be required to guarantee its management capacity and capability. This proposal has been designed to meet this need but offers additional benefits to the Council itself in terms of corporate management, efficiencies and added value.

RELATIONSHIP TO POLICY FRAMEWORK

The government’s Sub National Review of Economic Development and Regeneration underlines the important role of Local Authorities and is explicit in its support for delegation of regeneration funds to Local Authority level and also in the delivery of projects. In recent discussions with North West Development Agency (NWDA) and Homes and Communities Agency (HCA), two of the Council’s major funders, this is reiterated, but clearly depends on a number of conditions.

CONCLUSION OF IMPACT ASSESSMENT

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

The new structures to be put in place will provide the appropriate framework to ensure that all the issues of Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing will be addressed through appraisal.

FINANCIAL IMPLICATIONS

Option 1 – Re-structure of three new teams with specific responsibilities for (i) programme management and external funds, (ii) regeneration project delivery and (iii) the worklessness team with effect from 1st April 2009.

The costs of this revised staffing structure based on the current information provided are approximately £534,600 2009/10, £554,400 2010/11 and £569,100 2011/12. Part of these costs will be met by the existing Council staffing budget provision. The remaining costs of £217,000 2009/10, £267,500 2010/11 and £275,200 2011/12 are to form part of the NWDA funding bid.

As an interim measure, funding will need to be allocated on a temporary 6 month basis to permit staff to remain in post, until the NWDA determine the application for funding. The total costs of the proposed restructure on a 6 month basis are approximately £267,300 (this includes existing Council funding of £158,800). The additional staff costs of £108,500 arising from an unsuccessful bid will be covered by the Project Implementation Reserve; currently the balance stands at just under £200K.

It is anticipated that this activity will continue to be funded by NWDA on a 3 year basis. However, this cannot be guaranteed. Alternative options would need to be considered by Cabinet in relation to circumstances prevailing at that time, and could include recovery of cost via a new funding source, budget growth or redundancy/redeployment.

There will also be requirement for a 12 month extension of contracts of the Worklessness Team which will cost £29,300 and will also be born out of the Project Implementation Reserve, assuming that the County Council bid is successful. If the bid is unsuccessful then the full cost would be £68,200 for 12 months.

Redundancy Costs

Members should be aware that several of the posts referred to in this report have had sufficient length of employment to acquire redundancy entitlement which would need to be taken into account on both options.

If the proposed structure is approved, but the funding bids to the NWDA and LDLSP are unsuccessful the City Council would need to serve statutory notice of termination to fixed term contract posts. The redundancy costs associated with this are currently estimated at £90,400 however this does not take account of any early retirement costs and are based on an enhanced redundancy settlement.

Option 2 – Do nothing option – allow unfunded posts to end 31st March 2009

If the City Council does not progress the proposed structure the redundancy costs of all temporary posts in the current structure would need to be funded. This is currently estimated at £80,000 however this does not take account of any early retirement costs on an enhanced redundancy settlement. The relevant permanent posts that are still subject to continuation of funding may continue for a number of months via the remaining LCC budgets, the length of which would be determined by the volume of remaining committed work.

For either option, the Project Implementation Reserve could be used to meet all or part of any redundancy costs (subject to remaining balance), if other sources were not available. Such funding issues are considered as a separate item elsewhere on the agenda.

Regarding the remaining housing posts and the proposed transfers into the 'LDF' planning team, there will be a small saving of around £5K per year, as the Strategic Housing Officer post will revert to its substantive grade.

SECTION 151 OFFICER'S COMMENTS

Option 1 presents an opportunity to strengthen financial management, control and planning associated with various programmes and the delivery of major projects, within existing budgets. Whilst there are some risks involved, these are manageable and in the s151's view, they are far outweighed by the opportunities that this proposal presents. With option 2, these opportunities could not be realised, and greater financial risks would remain.

LEGAL IMPLICATIONS

The legal implications concerning contractual employment rights have been incorporated within this report.

MONITORING OFFICER'S COMMENTS

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

BACKGROUND PAPERS

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CABINET

**MEMORIAL SAFETY PROGRAMME
17 February 2009**

Report of Corporate Director (Community Services)

PURPOSE OF REPORT			
This report informs Cabinet of the options for the future of the Council's Memorial Safety Programme.			
Key Decision	<input checked="" type="checkbox"/>	Non-Key Decision	<input type="checkbox"/>
		Referral from Cabinet Member	<input type="checkbox"/>
Date Included in Forward Plan		6 October 2008	
This report is public.			

RECOMMENDATIONS OF COUNCILLOR DAVID KERR

- (1) That Cabinet consider the option to retain a 2 person Memorial Safety Team.
- (2) That the preferred method of making memorials permanently safe is to re-fix headstones in place rather than lay down.

1.0 Introduction

- 1.1 The Cabinet meeting on 20 January 2009 requested further options on possible working patterns to reduce the costs of retaining a memorial safety team.
- 1.2 Further information was also requested on laying flat memorials as a means of dealing with staked and banded memorials.
- 1.3 The Cabinet report of 20 January 2009 is attached at Appendix 1.

2.0 Future Memorial Safety Programme

- 2.1 In addition to full time working (option 1 refers) deploying the 2 person team on memorial safety for 2 or 3 days per week and carrying out general cemeteries duties and grounds maintenance for the remainder of the week has been considered.
- 2.2 Savings within the cemeteries contractual and non-contractual grounds maintenance budgets have now been identified to fully fund the memorial safety team from 2009/2010 onwards.

It is proposed that the Memorial Safety Team work the equivalent of 3 days on memorial safety and 2 days on non-contractual grounds maintenance as dictated by operational needs.

Examples of work activities on non-contractual grounds maintenance to be undertaken are as follows:-

- Maintenance of specialised areas, e.g. green burial areas, cremated remains section, wildflower areas, etc. which have been created since 2007.
- Flower bed/container planting and maintenance.
- Assisting with grave excavation.
- General grounds maintenance such as weeding grave plots, path edging, litter picking, leaf removal, pruning, etc.
- Repair and maintenance of benches, taps, bin stores, etc.

2.3 The Public Health & Safety Manager considers that £34,700 in 2010/2011 and £36,000 in 2011/2012 can be offered from the cemeteries non-contractual grounds maintenance budget to contribute to funding the memorial safety programme.

The Council has a statutory duty to keep it's cemeteries in good order and repair together with all buildings, walls and fences. The impact on this budget will mean that only essential repair work on buildings, paths and fences will be carried out and improvements to the infrastructure will be delayed and prioritised to the available budget.

The contribution also includes the following:

- | | |
|------------------------------------------------------------------------------|---------|
| ▪ Removal of the cemeteries seasonal gardener post EHO203 | £7,200 |
| ▪ In 2010/11 and beyond, a contribution from the contracted services budget. | £10,000 |

The outstanding Cemeteries Task Group recommendations such as provision of new signage in all cemeteries, improvements to green burial areas, establishing new Friends Groups, etc, will be significantly delayed or not carried out.

The Public Health & Safety Manager in liaison with the cabinet member responsibility for Environmental Health will discuss the impact on Cemeteries.

2.4 The balance can be found by reducing the contractual grounds maintenance specification in the following areas:

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| | Saving |
| <ul style="list-style-type: none"> ▪ Reduce number of cuts in the remaining cemeteries from 16 to 14 between April-September from 2009/2010 ▪ Reduce hedge cutting to once per year | }
}
£5,100 |

- 2.5 The impact of funding the memorial safety programme within existing resources will lead to a noticeable reduction in the current grounds maintenance standards and a delay in implementing the outstanding Cemeteries Task Group recommendations.

However, this has to be balanced against the priority of having a memorial safety programme and having the essential operational flexibility to deliver a statutory burial service.

3.0 Laying Flat Memorials Or Making A Permanent Repair

- 3.1 Option 2 considers laying flat memorials. Laying flat is not as simple as 'pushing over'. If this was to occur the base of the memorial would be left standing up to 12" high and the memorial not necessarily laid flat. Furthermore, the inscription would be face down.

- 3.2 The headstone would then present a potential trip hazard and would interfere with the grass cutting operations leading to:

- taking longer to cut the lawn section areas – these sections are designed to make the grass cutting operation efficient and create a neat and tidy appearance. With memorials laid flat the grass cutter would have to weave in and out of the laid flat stones;
- more strimming would be required;
- more complaints would be received leading to additional officer and admin time in dealing with them.

- 3.3 To lay flat and do the job properly and professionally would involve the following:

- setting up the lifting gantry
- separating the memorial and its base from the foundation stone
- digging a 'hole' to take the memorial and its base so that it lays flush with the ground
- turn the memorial so that it is laid flat with the inscription uppermost
- make good any damaged turf and take away excess soil
- move gantry for next memorial

The memorial safety team advise that such an operation would take approximately 1 hour per memorial.

- 3.4 By comparison, Option 3 considers making memorials safe by a re-fix to current NAMM standards. The time taken to make a permanent repair of a typical lawn section memorial would be approximately 1 ½ hours and would require a maximum of £20 in materials (ground anchor, 2 x dowels and cement).

4.0 Options and Options Analysis

Options	Advantages	Disadvantages	Risk Assessment	Financial
<p>1</p> <p>To make the Memorial Safety Team (reduced to 2 posts), full time.</p>	<p>Retains expertise to allow:</p> <ul style="list-style-type: none"> ▪ Implementation of rolling testing programme. ▪ Ability to repair unsafe and vandalised memorials. ▪ Ability to monitor work of private masons to ensure future compliance with standards. ▪ Provide the necessary operational resources to deliver essential services required at the time of burial. ▪ To carry out permanent repair to previously staked and banded memorials. ▪ Provides extra resilience for business continuity in the event of a major incident. 	<ul style="list-style-type: none"> ▪ Ongoing revenue costs as outlined in financial implications section. ▪ One post made redundant ▪ Noticeable reduction in GM standards, especially grass cutting. 	<p>Ensures Council is complying with legal responsibilities and cemeteries good management.</p>	<ul style="list-style-type: none"> ▪ 2-man team including equipment, tools and vehicle approximately £55k/year. ▪ In 2009/2010 up to £6,000 redundancy costs required ▪ In 2010/2011 onwards memorial safety programme would be fully funded from within existing cemeteries grounds maintenance budgets.

Options	Advantages	Disadvantages	Risk Assessment	Financial
2 Laying flat memorials.	<ul style="list-style-type: none"> ▪ Cost saving on materials that would be used to make a permanent repair. 	<ul style="list-style-type: none"> ▪ Would interfere with grass cutting operation leading to increased costs. ▪ Would affect neat and tidy appearance of lawn sections leading to increased complaints. ▪ Increased officer time in dealing with complaints and distress caused to relatives and public by laying flat large numbers of headstones. 	<ul style="list-style-type: none"> ▪ Large scale laying down of memorials may be deemed to be maladministration should a complaint be made to the Ombudsman. ▪ Potential trip and slip hazard. ▪ Potential for damage to headstone by grass cutting operation. ▪ Could lead to bad PR for Service and Council. 	<ul style="list-style-type: none"> ▪ By not carrying out a repair, approximate annual saving would be £3,000 on materials.

	Options	Advantages	Disadvantages	Risk Assessment	Financial
3	Carry out a repair to staked and banded memorials to ensure compliance with NAMM standards.	<ul style="list-style-type: none"> ▪ Makes memorial safe. ▪ Preserves lawn section layout and allows for cost effective grass cutting and maintenance. 	<ul style="list-style-type: none"> ▪ Increased material costs when compared with laying flat. 	<ul style="list-style-type: none"> ▪ Reduces risk of accidents and potential litigation. 	<ul style="list-style-type: none"> ▪ Cost in materials for in-house repair is £20/memorial. ▪ Costs can be met from within the allocated running costs budget of £3,500 for 2009/2010. ▪ Cost of repair will be recouped from relatives should contact be made with them in the future.

5.0 Officer Preferred Option

- 5.1 Option 1 is recommended for approval on the basis that it enables the Council to meet its responsibilities for Memorial Safety in a cost effective way which can be delivered operationally.
- 5.2 Option 3 (refixing memorials in place) is the recommended option for effecting a permanent solution which reflects recently published guidance and best practice.

6.0 Conclusion

- 6.1 Approval of Options 1 and 3 ensure the Council is complying with its legal responsibilities.

RELATIONSHIP TO POLICY FRAMEWORK

Improving on a continuing basis the Services that the Council provides.

Meeting medium term objectives of:

- Cost effective services that give good value for money.
- Make our district a cleaner and healthier place.

CONCLUSION OF IMPACT ASSESSMENT

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

There are no implications

FINANCIAL IMPLICATIONS

On 27th February 2008, Council approved a growth item of £55,000 to support the Memorial Safety Programme in 2009/2010.

The officer preferred option (1) is to continue this programme beyond 2009/2010 and to establish the team on a permanent basis. This can be managed from within existing budgets as detailed below :-

	2009/2010 £	2010/2011 £	2011/2012 £
Memorial Team Costs			
Staff Costs	42,300	43,700	44,800
Vehicle Lease Costs	6,000	6,100	6,300
Potential Redundancy Costs	6,000	-	-
	54,300	49,800	51,100
Funded By :-			
Existing Approved Funding (included in draft budget)	(54,300)		
Reduction in Cemeteries Non-Contractual GM Budget		(34,700)	(36,000)
Reduction in Cemeteries Contracted Services		(10,000)	(10,000)
Contractual GM Savings within Cemeteries		(5,100)	(5,100)
	(54,300)	(49,800)	(51,100)
Savings Generated	-	-	-

As detailed in the report, the funding of the team requires a substantial decrease in the current standard of grounds maintenance within Cemeteries. This is achieved by a reduction in the contractual grounds maintenance specification met via a reduction to the number of seasonal gardeners recruited by City Council Direct Services.

Should Members decide not to choose the funding options identified above then alternative savings will need to be identified. All approved savings should be built into the 2009/2010 budget process with immediate effect.

Option 2 – Laying Flat Memorials

This option reduces the material Costs in the Cemeteries budget by £3,000 each year.

Option 3 – Repair to staked and Banded Memorials

The existing budget is sufficient to cover the proposal in option 3 therefore no further funding would be required.

SECTION 151 OFFICER’S COMMENTS

In reaching a decision, Members are advised to consider the options in context of the budget position and the need to make ongoing savings and achieve value for money, as well as proposed priorities and the impact on the service.

LEGAL IMPLICATIONS

Legal Services have been consulted and have no further comments to add to those contained in Appendix 1.

MONITORING OFFICER’S COMMENTS

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

BACKGROUND PAPERS

Cabinet Report on Memorial Safety Programme
20 January 2009

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CABINET

APPENDIX 1

**MEMORIAL SAFETY PROGRAMME
20 January 2009**

Report of Corporate Director (Community Services)

PURPOSE OF REPORT			
This report informs Cabinet of the options for the future of the Council's Memorial Safety Programme.			
Key Decision	X	Non-Key Decision	Referral from Cabinet Member
Date Included in Forward Plan	6 October 2008		
This report is public.			

RECOMMENDATIONS OF COUNCILLOR DAVID KERR

- (1) That Cabinet support an in-house memorial safety team comprising 2 posts for 2009/10 and on a permanent basis.

1. Introduction

- 1.1 Cabinet agreed on 17 January 2006 to support the development of an in-house team to implement the Council's Memorial Safety Programme (min. 124(2) refers).
- 1.2 They also agreed that previously staked and banded memorials be left in that condition for a further 12 months subject to a review (min. 124(1) refers).
- 1.3 An Individual Cabinet Member Decision Notice dated 22 February 2007 agreed that previously staked and banded memorials be left in that condition for a further 2 years.
- 1.4 A sum of £55k was agreed at Council on 27 February 2008 as a one-off cost for continuation of the Memorial Safety Programme in 2009/10

2. Future of the Memorial Safety Programme

- 2.1 A memorial safety programme is essential in order to deliver the Council's legal responsibilities.

2.2 Resources are required to:-

- implement a rolling programme of memorial testing;
- extend the testing programme to Closed Churchyards;
- make a permanent repair to previously staked and banded memorials;
- monitor the work of private masons under the Council's Memorial Masons Registration Scheme;
- re-fix headstones to preserve the historical and social interest within the cemetery;
- provide the necessary operational flexibility to deliver essential services required at the time of burial.

2.3 It is believed that the staff resources required to undertake the work outlined in this report by an in-house team can be delivered by 2 operatives and, therefore, it is recommended that the current team be reduced by one post.

2.4 £55K has already been allocated for 2009/10 for memorial safety team, but as a one-off only.

3. Ongoing Testing Programme

3.1 HSE, the Local Government Ombudsman and the professional Associations, e.g. ICCM, ABA, NAMM, recommend a rolling programme of testing/re-inspection. The Ombudsman in his *Special Report on Memorial Safety In Local Authority Cemeteries*, stated that the frequency of re-inspection under a rolling programme will be a matter for each Council to determine. However, the maximum period between inspections should be no more than 5 years and further stated that it is maladministration for Councils not to have a testing policy, not to keep proper records of safety tests carried out and the condition of individual memorials where defects are discovered.

3.2 The Burials and Cemeteries Advisory Group (BCAG) are in the process of preparing new guidance. BCAG was established in December 2001 following the report on cemeteries by the Environment, Transport and Regional Affairs Committee. The group was established to use the collective expertise of the industry and to provide advice and information for burial authorities, the public and government, including in connection with the review of burial law. The Ministry of Justice is now responsible for this group. The HSE's representative on the sub group has made it abundantly clear that, in the event of an accident involving an unstable memorial, HSE Inspectors will be looking to establish that the burial authority concerned has followed their guidance.

3.3 A testing programme was started in Lancaster District in 2004/5 and memorials in all cemeteries, except closed churchyards, have now had an initial test. Memorials found to be safe have been given a next inspection date between 1 and 5 years, dependant upon the type of material, condition, amount of lean, ground conditions, etc.

The Council has responsibility for the following closed churchyards:

- Morecambe Parish Church
- Bolton le Sands Parish Church
- St Wilfrid's Church, Halton
- St John's Church, North Road, Lancaster
- Lancaster Priory

3.4 The majority of memorials will be due a re-test commencing 2009/10. It must also be noted that those memorials, where a next inspection date was less than 5 years have not been subject to a re-test due to insufficient resources.

The number of memorials requiring re-testing are as follows:

2007/08	600 (overdue)
2008/09	2153 (overdue)
2009/10	6921
2010/11	4195

Therefore, the number requiring re-testing plus the overdue in 2009/10 is 9,674

3.5 There is no spare capacity to undertake the rolling programme within the current cemeteries team (ie, excluding the memorial safety team). Options available for consideration are to use a private contractor or retain the in-house memorial safety team.

3.6 A number of private contractors have been approached and costs are in the region of £2.50-2.80/memorial. The in-house costs would be 48p/memorial.

3.7 An Internal Audit Report on the Cemeteries Service was published on 21 September 2007. At that point Internal Audit issued a "Limited" assurance opinion reflecting the need for arrangements to be strengthened in a number of areas.

Amongst the conclusions were:

- The authority is at risk of substantial losses should an accident occur in a closed churchyard.
- To continue to protect public safety funding is needed to extend the Memorial Safety Programme beyond the two years currently funded (ie, beyond 31 March 2009).

A follow up report by Internal Audit, dated 10 April 2008 acknowledged that action had been taken to secure funding until March 2010 and that the Service would continue to seek additional funding to extend the programme further. Taken alongside improvements made in other areas, Internal Audit were able to raise their assurance opinion to "Reasonable" (i.e. that sufficient reliance could be placed on arrangements). Whilst acknowledging the action taken to improve memorial safety, the follow-up did not involve an in-depth re-assessment of the risk posed by potentially unsafe memorials.

3.8 The risk posed by closed churchyards is still valid as a testing programme is yet to be commenced. If the Memorial Safety Programme was to cease then there would be a risk that was not controlled. Whether this risk would materialise into a serious accident or death is very difficult to quantify and prioritise against the many other risks the Council face.

Unfortunately, cemeteries are places where children and youths play, congregate and cause vandalism and this inevitably increases the risk of an accident.

4. Previously staked and banded memorials.

- 4.1 In the period 2004-2006, the Council's cemeteries, excluding Lancaster Cemetery, were subject to a memorial safety programme which resulted in unsafe memorials being staked and banded or, as a last resort, laid flat.
- 4.2 Despite much publicity, notices requesting owners to contact the Cemeteries team, fastened to each headstone, and writing to the last known address of the owner where possible or relative, approximately 70% of unsafe memorials have yet to be re-fixed in accordance with current standards.
- 4.3 It is evident that no further contact is likely, given the elapsed period of time and therefore no prospect of the unsafe memorials being re-fixed by the Deed of Grant owner or one of their relatives.

The stake and banding provides a temporary fix. Cabinet has on 2 previous occasions agreed to extend the time period that the memorials remain staked and banded and this will end on 31 March 2009.

The integrity of this temporary fixing must now be questioned due to:

- Potential rotting of the wooden stakes as many have been in situ for 4-5 years.
- Over the years a number have been removed/vandalised (evidence found strewn around the cemetery).

The major contributing factor to the time extension was the lack of available resources to effect a permanent repair due to the teams ongoing work in Lancaster Cemetery which was the priority.

- 4.5 The Ombudsman stated that large scale laying down of memorials without due need, will be maladministration and it is therefore considered that to potentially lay flat 1,704 memorials would be contrary to best practice and lead to widespread criticism and cause distress to the public.

Cemetery records indicate that 1,704 would require re-fixing to current NAMM standards. The costs of a permanent repair to a typical lawn section memorial carried out by an external contractor would be in the range of £125-150 per memorial whereas the cost of a permanent repair by the in house memorial safety team would be £55/per memorial.

- 4.6 In view of this, it is recommended that the memorial safety team be tasked with making a permanent repair/fixing to all those memorials that were previously staked and banded. It is estimated this would take 2-3 years to complete.

Options and Options Analysis

	Options	Advantages	Disadvantages	Risk Assessment	Financial
1	To make the Memorial Safety Team (reduced to 2 posts), permanent.	<p>Retains expertise to allow:</p> <ul style="list-style-type: none"> ▪ Implementation of rolling testing programme. ▪ Ability to repair unsafe and vandalised memorials. ▪ Ability to monitor work of private masons to ensure future compliance with standards. ▪ Provide the necessary operational resources to deliver essential services required at the time of burial. ▪ To carry out permanent repair to previously staked and banded memorials. ▪ Provides extra resilience for business continuity in the event of a major incident. 	<ul style="list-style-type: none"> ▪ Ongoing revenue costs as outlined in financial implications section. ▪ One post made redundant 	Ensures Council is complying with legal responsibilities and cemeteries good management.	<ul style="list-style-type: none"> ▪ 2-man team including equipment, tools and vehicle approximately £55k/year. ▪ In 2009/10 up to £6,000 redundancy costs required

Options	Advantages	Disadvantages	Risk Assessment	Financial
2 To cease the Memorial Safety Programme.	<ul style="list-style-type: none"> ▪ Approved budget of £55K in 2009/10 would result in savings to the Council minus redundancy costs. <p>Approximate saving of £45K</p>	<ul style="list-style-type: none"> ▪ Council will be failing it its statutory duties under Health & Safety at Work Act 1974 and Owner Occupiers Liability responsibilities. ▪ No testing programme in place. The Council would run the risk of being found guilty of maladministration should a complaint be made. ▪ Closed churchyards not tested yet. ▪ Council will not be following established guidance. ▪ Temporarily staked and banded memorials left indefinitely and thereby will present an ever increasing risk as time elapses. ▪ Unable to monitor work of private masons. 	<ul style="list-style-type: none"> ▪ Could lead to bad PR for Service and Council ▪ Potential for unsafe memorials. ▪ No defence in future litigation or claims following an accident, as recognised by Cemeteries Internal Audit Report dated 21 September 2007. ▪ Council risks prosecution under Health & Safety and/or Corporate Manslaughter legislation. 	<p>Redundancy costs estimated as follows:</p> <ul style="list-style-type: none"> ▪ Costs for enhanced package = £9,799.83 ▪ Costs for statutory package = £6,584.44 <p>All employees with more than 2 years service are entitled, in the appropriate circumstances, to redundancy payments.</p>

Options	Advantages	Disadvantages	Risk Assessment	Financial
2 Cont.		<ul style="list-style-type: none"> ▪ Cemeteries team's operational flexibility will be lost leading to reduced service delivery. 		
3	<ul style="list-style-type: none"> ▪ Testing programme would be carried out quicker. ▪ Opportunity for Council to assess benefits of using external contractors/partnership working to deliver part of service. 	<ul style="list-style-type: none"> ▪ Would need to engage each year to carry out testing. Also need to engage contractor to carry out any temporary re-fix. ▪ Much more expensive than in house team option. 	<ul style="list-style-type: none"> ▪ Would need to take up references re competency. ▪ Less control over contractor costs leading to increased cost of test and repair programme. 	<p>Cost of permanently repairing unsafe memorials and carrying out testing using an external contractor is approximately 40% more expensive than an in-house team.</p>
4	<ul style="list-style-type: none"> ▪ Uses the budget already approved for 2009/10 and does not commit the Council to further costs. ▪ Enables testing programme to be implemented including closed churchyards. ▪ A limited amount of repair work could be undertaken. 	<ul style="list-style-type: none"> ▪ Delays decision on long term future of temporarily staked and banded memorials and testing programme for future years. 	<ul style="list-style-type: none"> ▪ Protects Council's interests re testing programme for further 12 months. 	<p>£55K approved for 2009/10 and is sufficient for a further 12 months.</p>

6. Officer Preferred Option (and comments)

6.1 Option 1 is recommended for approval.

This option is recommended based on the operational experience gained over the last 2½ years and being the most cost effective way of delivering the memorial safety programme to ensure the Council meets its legal obligations

6.2 Option 2 is not recommended and has only been included in the report at the request of Members following the Star Chamber budget exercise.

6.3 Option 4 is a “stop gap” measure which would allow continuation of the Memorial Safety Programme and protect the Council’s legal responsibilities for a further 12 months.

7. Conclusion

Approval of recommendation 1 ensures the Council is complying with its legal responsibilities and is able to deliver an effective burial service to the public.

RELATIONSHIP TO POLICY FRAMEWORK

Improving on a continuing basis the Services that the Council provides.

Meeting medium term objectives of:

- Cost effective services that give good value for money.
- Make our district a cleaner and healthier place.

CONCLUSION OF IMPACT ASSESSMENT

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

There are no implications

FINANCIAL IMPLICATIONS

The Memorial Safety Programme has £55,000 approved by Council on the 27th February 2008. This will fund the Memorial Team for the first year, but leave a funding requirement for redundancy payment and for costs for future years. Under option 3, the External Contractors costs will be part funded in the first year and leave a funding requirement in future years.

	2009/2010	2010/2011	2011/2012
	£	£	£
Option 1			
<u>Memorial Team</u>			
Staff Costs	45,500	46,600	47,800
Vehicle Lease costs	6,000	6,100	6,300
Administration and Running costs	3,500	3,600	3,700
Memorial Team Costs	55,000	56,300	57,800
Existing Approved Funding	(55,000)	-	-
Potential Redundancy Costs	6,000	-	-

Additional Funding Requirement	6,000	56,300	57,800
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Option 2**Cease Memorial Safety Programme**

Potential Redundancy Costs	9,800	-	-
Existing Approved Funding	(55,000)	-	-
Potential Saving	(45,200)	-	-

Option 3**External Contractor**

Memorial Testing @ c£2.50 each	24,200	10,800	7,500
Memorial Fixing @ c£150.00 each	85,200	85,200	85,200
External Contractor Costs	109,400	96,000	92,700
Existing Approved Funding	(55,000)	-	-
Potential Redundancy Costs	9,800	-	-
Additional Funding Requirement	64,200	96,000	92,700

Option 4**Retain Memorial Safety Team until 31 March 2010 subject to review of Memorial Safety Programme for Future Years**

There would be no additional financial implications to option 4, as it would utilise only the existing funding available

There is currently no specific budgetary provision to meet any additional funding requirements and in order for the proposals to progress either savings would have to be identified or a growth bid would have to be formulated and approved by Full Council.

SECTION 151 OFFICER'S COMMENTS

Any potential growth bids should be considered in context of Cabinet's proposed priorities (and non-priorities), any relevant statutory requirements and the Council's financial prospects, i.e. the need to make budget savings. Any proposal for budget growth will increase the savings needed.

Should Members wish to support an extended memorial safety and supporting programme, whilst the in-house service provision would cost less over the 3 years, it is uncertain whether this would be the case in the longer term, given that the need for repair etc. should reduce in later years, once any backlog is cleared. Members may wish to take this into account when considering the permanency of any growth bid.

LEGAL IMPLICATIONS

Health and safety in cemeteries managed by the Council is enforced by the HSE. The City Council as a burial authority has duties under the Health and Safety at Work Act 1974 Section 2 towards its staff and Section 3 responsibilities towards members of the public and other contractors who visit the cemetery.

The Management of Health and Safety at Work Regulations 1999 require all employers to assess the risks to employees and non-employees which arise out of the employer's undertaking. Therefore, the City Council is under a legal duty to assess the risk from all cemetery structures (including memorials) and work activities in their cemeteries and ensure that the risk is controlled.

Guidance issued by HSE in August 2001 stated:

- a. Burial authorities should have clear safety policies in place which set out their standards for management of memorial safety.
- b. Staff are trained to carry out inspections of unstable memorials.
- c. An initial inspection is carried out to identify any memorials posing an immediate danger to the public. Memorials identified as falling into this category must be dealt with. A fuller inspection is then carried out to ensure that memorials in cemeteries are safe and that actions taken are properly recorded and maintained.
- d. An ongoing inspection programme is drawn up and implemented, ie, an inspection every 5 years or a rolling programme seems to be a reasonable approach. The frequency of inspection will depend upon the age, size and condition of the memorial and this is for burial authorities to decide as part of their assessment and review procedures.

If memorials are in immediate danger of falling, then cemetery management should take immediate action

Under the Corporate Manslaughter and Corporate Homicide Act 2007 an offence will be committed where failings by an organisation's senior management are a substantial element in any gross breach of the duty of care owed to the organisation's employees or members of the public, which results in death.

The Council owns the land within the cemeteries and gives a right to erect a memorial subject to seeking the Council's permission. The responsibility for the memorial and its future maintenance and safety rests with the Deed of Grant Owner or other family relative who has been assigned the right or is willing to accept responsibility for the memorial. The Council does not have any responsibility for individual memorials other than that implied through Health & Safety at Work Act 1974 as stated above and our owner occupier liability responsibilities.

DEPUTY MONITORING OFFICER'S COMMENTS

Deputy Monitoring Officer has been consulted and has no comments to add.

BACKGROUND PAPERS

Cabinet Report on Memorial Safety Programme 17 January 2006.
 Individual Cabinet Member Decision 22 February 2007
 The Local Government Ombudsman Special Report – Memorial Safety in Local Authority Cemeteries March 2006
 Institute of Directors and Health & Safety Commission 'Leading Health & Safety at Work' October 2007.
 Cemeteries Internal Audit Report 21 September 2007 and Post Audit Review 30 April 2008.

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Ref: C76

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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