

# **COUNCIL**

## **Proposals for the Governance Arrangements for Investment Decisions 30 January 2019**

### **Report of Cabinet**

#### **PURPOSE OF REPORT**

To provide a proposal for the governance of investment decisions for Council to consider for approval.

**This report is public.**

#### **RECOMMENDATIONS OF Councillor Whitehead**

- (1) Council approves the delegation of investment decisions to the leader in accordance with the policy framework set out in the Medium Term Financial Strategy.
- (2) Council notes the further proposed Constitutional change to allow delegations to Cabinet Member and Officers.
- (3) Council approves the principles and outline process in Appendix A, B, C and D.
- (4) Council requires Scrutiny Committee to consider and approve the detailed scrutiny process and recommend any changes to the procedure rules.
- (5) Council requires the Overview and Scrutiny Committee to consider a work programme to include i) review the effectiveness and outcomes of any individual decision ii) carry out a review of the investment portfolio. Such review to make any recommendations for improvement to the decision making or governance by January 2020.

#### **1.0 Introduction**

- 1.1 The City Council has a key decision limit of £50,000. The effect of this is to allow a key decision to be 'called in' by members through the route of scrutiny.
- 1.2 The City Council has delegated amounts in excess of this limit to the Leader and to officers to facilitate the daily activities of the council. These decisions are made in accordance with policy and budget set by full council. To permit this for commercial property investment, Council will need to be confident the approach is appropriate and then agree to amendment of Article 7 at paragraph 7.09 to allow key decisions to be taken by an individual cabinet member. Council is asked to note this in anticipation of a future paper which may amend the constitution.
- 1.3 The commercial investment strategy will be undertaken in accordance with the policy set by council. This paper is to approve the delegation to the Leader to act in accordance with the investment strategy contained within the Medium Term Financial Strategy, as and when it is approved by full Council and to require the creation of the detailed process and to consider any changes need to the procedure rules of any relevant committee.

## **2.0 Proposal Details**

- 2.1 Full council will set a policy framework for the delegation of decision making. This will be set out in the Medium Term Financial Strategy (MTFS). The Property Investment Strategy will be considered and approved by Council as part of the MTFS.
- 2.2 The Leader will have delegated authority to make these decisions.
- 2.3 This sits within the existing constitutional framework but Council will be aware that operationally it reduces the length of the processes we have adopted. The most significant proposal does not require any amendment of the constitution but a change in methods of working between Cabinet and Scrutiny. In the event this process is impacted by some constitutional limitation subsequent changes that can be addressed as the process develops.
- 2.4 The delegation to the leader will be exercised by Cabinet, which will be the decision making body for all decisions.
- 2.5 It is proposed in the future the Leader will (subject to Council decision in the future) delegate to the Cabinet Portfolio Holder for Finance, in consultation with the Chief Executive and agreement of the Section 151 Officer and Monitoring Officer, authority to approve decisions up to £5 million. This will require amendment to Article 7.09 of the Constitution to allow individual cabinet members to make property investment decisions.
- 2.6 If this is successful, the Leader will consider future policy proposals to Council for the delegation to the Chief Executive, in agreement with the Section 151 Officer and the Monitoring Officer, any decision up to £1 million.

## **3.0 Details of Consultation**

- 3.1 Officers have provided a series of briefing sessions on the *Funding the Future* strategy which have been open to all members. In respect of the commercial investment strategy, briefings have been made available to Cabinet and Scrutiny before Christmas with an invitation to all members. A workshop open to all members was held on the 11 January 2019, after which this report was updated. A questionnaire was also provided to all members and announced at the 19 December 2018 council meeting. Analysis on the 7 January 2019 indicated only 3 responses.
- 3.2 The briefing sessions, workshop and survey all indicated a desire for early involvement of scrutiny (pre-decision) as members indicated they could add value by informing a decision rather than an after-the-event critique.
- 3.3 At the workshop on the 11 January 2019 members had the opportunity to work through the investment matrices and scoring systems. In general, members indicated they approved the approach of a scoring matrix to assess the viability of any proposal, the yield matrix to confirm the likely return, and the social value scoring to give clarity over any benefits to the district.
- 3.4 Members also made a number of suggestions for additional information and changes to the matrix. The feedback was recorded but of particular note was the desire to have clarity that the proposal was within the framework, e.g. ethical, geographical and environmental. Members requested additional evidence to be provided in the matrices

in respect to particular market segments. This included information of wider sector performance, local and national competition, and for retail product lines/market and exit proposals.

- 3.5 Members also requested the yield and social value documents should provide greater clarity on additional benefits that may accrue such as business rates, impact on a high street frontage, employment, skills creation, community impact and how this would be measured.
- 3.6 When considering the use of Scrutiny, there were no unanimous views but some areas of consensus emerged. Firstly, in respect of any individual investment proposal, the need to act within a market, it was felt the early involvement of scrutiny in the process could be helpful. This may involve the chairman or other members of scrutiny being consulted at early stages of any proposal. It was also suggested for an investment decision, that a Cabinet and Scrutiny briefing could be combined and members could be free to ask officers questions allowing for the Scrutiny perspective to be incorporated prior to any individual decision being made by Cabinet. Scrutiny will need to consider the appropriate person to put forward to engage with this process.
- 3.7 Some members felt the matrix scoring system was positive and fact-led, therefore the reasons for just checking the scoring were limited and the use of call- in would have limited value, and Scrutiny members could be better engaged earlier in the process rather than causing delay. There was no clear consensus for removing call-in for any individual decision, but there were proposals which, when scrutiny had been properly consulted and involved, the prospect of 'call-in' in any particular case was reduced and in cases of urgency may be waived. (Constitution part 4, Rules of Procedure, Section 5 (17))
- 3.8 This approach was closely linked to members indicating that risk for a proposal eg voids, retail sector, needed to be clearly articulated and the mitigation of those risk made clear for Scrutiny.
- 3.9 It was also clear from the workshop that members felt the opportunity to review actual performance on any decision and the overall performance of any investment portfolio was extremely important. Scrutiny will have a clear role in that process of review which is why inclusion in the work programme is suggested. This will inevitably lead to proposals to sell investments and that procedure will also need to be considered.
- 3.10 The principles set out in Appendix A are based upon the responses and feedback of members who have participated in the consultation. If Council is minded to agree those principles it will be for Cabinet and Scrutiny to developed the detailed policy and rules of procedure to give effect to those principles.

#### 4.0 Options and Options Analysis [including risk assessment]

	Option 1: agree the approach	Option 2: Do nothing
<b>Advantages</b>	Allow the investment policy to be implemented.	No increase in risk.
<b>Disadvantages</b>	Investments can be volatile.	The <i>Funding the Future</i> gap is not met.
<b>Risks</b>	The Council may not make the expected return and may place capital at risk.	Managed decline in service provision.

- 4.1 The overall policy framework will be included in the Medium Term Financial Strategy and will be set by Council and the investment decisions will be made within that framework. The purpose of this is to ensure the resources allocated by Council are used for their intended purpose, are properly accounted for, achieve best value and are within the risk profile agreed by Council. The decision must be evidence-led and members must approve the investment strategy and the assessment tools, yield calculator, assessment matrix, social outcome matrix.
- 4.2 The future proposal for the transactions to be delegated to the Cabinet member is designed to allow for flexibility in decision making. The delegation is permissive, meaning that, where appropriate, the Cabinet Member may wish to refer the matter to Cabinet.
- 4.3 The values attached to the future policy proposals to delegate decision making are suggested at a level to allow for a realistic valuation and progress on smaller proposals, as these investments will usually involve a land transaction in a commercial setting and the values are usually higher. The proposal for a lower limit of £1 million will ensure only the most modest proposals are delegated to officers in the future, limiting risk and liability on officer only decisions.

## **5.0 Officer Preferred Option (and comments)**

- 5.1 If Council wishes to pursue the investment strategy it will need a method of implementing that policy.

<b>RELATIONSHIP TO POLICY FRAMEWORK</b>  This is design to facilitate the implementation of the Medium Term Financial Strategy and to facilitate <i>Funding the Future</i> .
<b>CONCLUSION OF IMPACT ASSESSMENT</b> <b>(including Health &amp; Safety, Equality &amp; Diversity, Human Rights, Community Safety, Human Resources, Sustainability and Rural Proofing)</b>  None
<b>LEGAL IMPLICATIONS</b> The proposals are within the Constitution, and will require procedures to be refined by the relevant Committees. Any additional proposed delegations to individual Cabinet Member or Officers will require Constitutional amendments to Article 7.
<b>FINANCIAL IMPLICATIONS</b> There are no direct financial implications associated with the governance process. However, property investments will require borrowing in order to make a financial return. The yield calculation within the Property Investment Strategy is designed to ensure that financial implications from any property investment are captured.
<b>OTHER RESOURCE IMPLICATIONS, such as Human Resources, Information Services, Property, Open Spaces:</b>  This policy will be developed and led by the Regeneration Team

**SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been involved in the drafting of this paper.

**MONITORING OFFICER'S COMMENTS**

The Monitoring Officer has been involved in the drafting of this paper.

**BACKGROUND PAPERS**

**Contact Officer:** Monitoring Officer

**Telephone:** 01524 58 2000

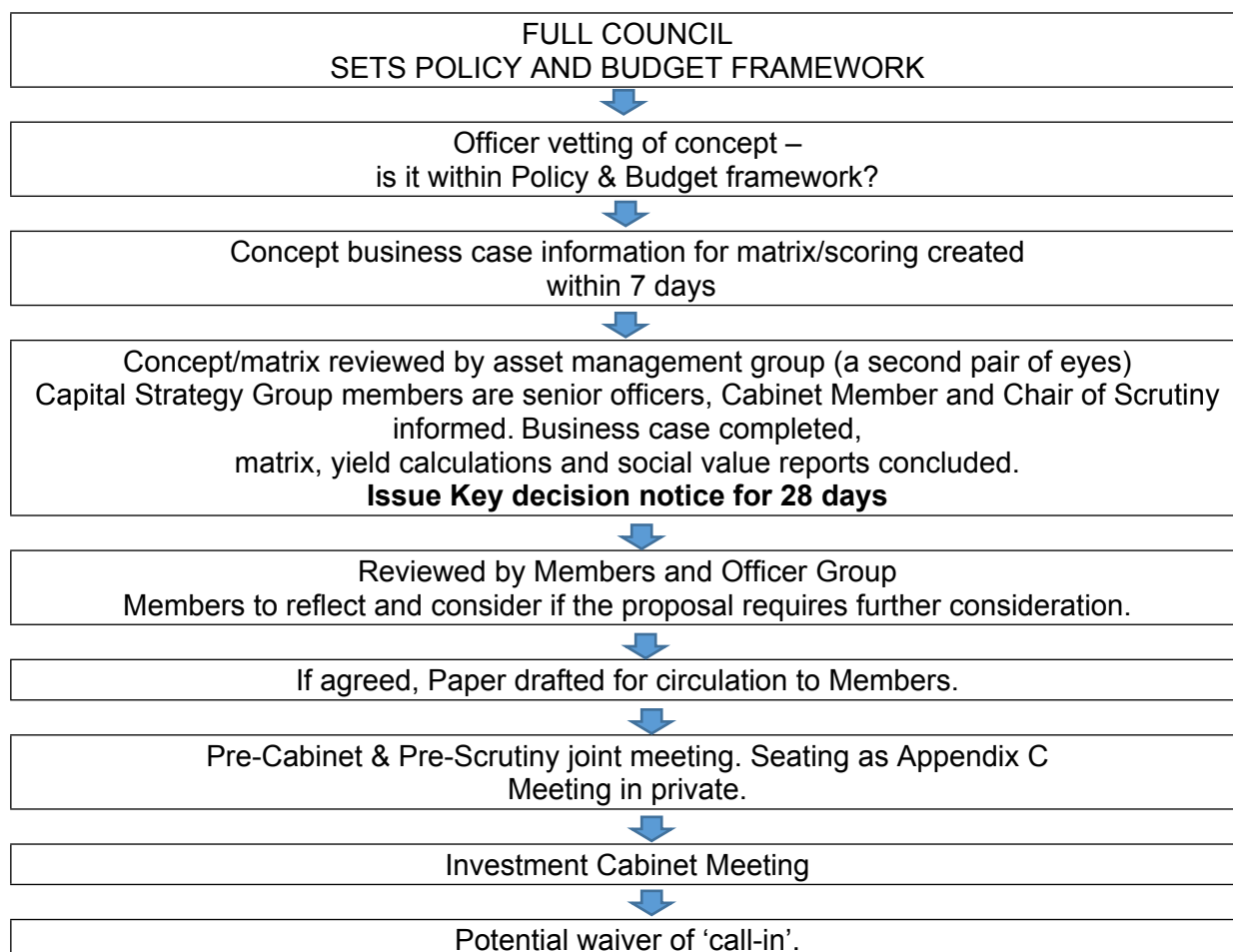
**E-mail:** [dbrown@lancaster.gov.uk](mailto:dbrown@lancaster.gov.uk)

### **Governance Principles**

1. Cabinet and Scrutiny will work within the existing constitutional arrangements and make such future recommendation for amendments as required.
2. Cabinet will take all reasonable steps to ensure the process in Appendix B, which is designed to operate within the existing Constitutional framework, is used.
3. Key Decision notices will be issued as soon as reasonable practicable, however this recognises that some proposals and Key Decision may be withdrawn before a decision is required.
4. Cabinet and Scrutiny will hold meetings in a timely manner and, if necessary, outside of the scheduled meetings.
5. The Portfolio Member or Leader and/or other Members of Cabinet will attend and participate in early business case meetings to assist in developing the scoring matrices for any individual investment decision. The Cabinet Members will work with any Scrutiny Members attending.
6. Cabinet will facilitate the engagement of Scrutiny in joint pre-Cabinet/Scrutiny briefing sessions on investment proposals. The meetings will be in private and will allow sufficient time for the merits of the investment proposal to be considered.
7. The subsequent Cabinet report will state if the proposal has been supported at pre-scrutiny.
8. Cabinet and Portfolio Members will give serious and proper consideration to references, reports and recommendations from Scrutiny. In particular recommendations for amendments to the scoring matrices and investment strategy, which will be properly considered when the decision is made.
9. The objective of Cabinet is to work within the policy framework and make robust evidence-led decisions. To achieve this, Cabinet will develop a process and amend any procedure rules necessary to facilitate a robust independent, flexible and timely process for investment decisions.
10. Scrutiny has no executive powers. It must therefore work by probing, investigating, enquiring, encouraging, persuading, reporting and recommending. The relationship between Scrutiny and the Cabinet is not adversarial. Council has set the policy (and where the decision is clearly within the policy framework) the role of Cabinet and Scrutiny is to facilitate the decisions. To this end the scrutiny of individual decisions to invest on any individual proposal may be less helpful than a scrutiny role of reviewing performance over time and suggesting improvements to scoring and strategy. Scrutiny may choose to waive 'call in' in cases of urgency and if it considers any individual decision has been appropriately considered.
11. The functions of Scrutiny in the investment process are to:
  - i) contribute to the development of policies and strategies of the Council.

- ii) ensure the implementation of best value including the programme of individual investment reviews, and investment portfolio review.
  - iii) to suggest improvements to the governance and management of individual decisions and the investment portfolio.
  - iv) to facilitate the will of Council by ensuring the best investment decisions are made.
12. Scrutiny should not be used to block, delay or frustrate the legitimate will of the Council or Cabinet.
13. Scrutiny recommendations to Cabinet must be supported with evidence.
14. Scrutiny Chairmen and/or other Members will attend and participate in early business case meetings to assist in developing the scoring matrices for any individual investment decision. They will work with any Cabinet or Portfolio Members attending. Scrutiny and B&PP will consider the most appropriate members to attend.
15. Scrutiny will engage in pre-cabinet/scrutiny briefing sessions on investment proposals where Scrutiny committee can test the proposal against the background of the information they have already seen and their knowledge of local circumstances and they are also able to bring a cross party perspective to investment issues. The result of this process is more likely to be a soundly based proposal, which has the support of Scrutiny and can then be reported to the Cabinet with a recommendation for approval. This significantly reduces the risk of conflict and delay.
16. Scrutiny will consider performance information, such as how does the matrix scoring relate to actual outcome? It will assist Cabinet in setting performance indicators. The role of Scrutiny is to expose poor performance in the investment, to celebrate excellent performance and to challenge targets which are either unrealistic or not sufficiently ambitious by reference to the matrices or *Funding the Future* proposals.
17. The objective of Scrutiny should always be to identify opportunities for improvement beyond what is already planned. To achieve this, Scrutiny will develop a process and amend any procedure rules necessary to facilitate a robust independent, flexible and timely process.

**Draft Process chart**



***Time elapsed between proposal and decision 35 days. Additional time depending on call-in.***



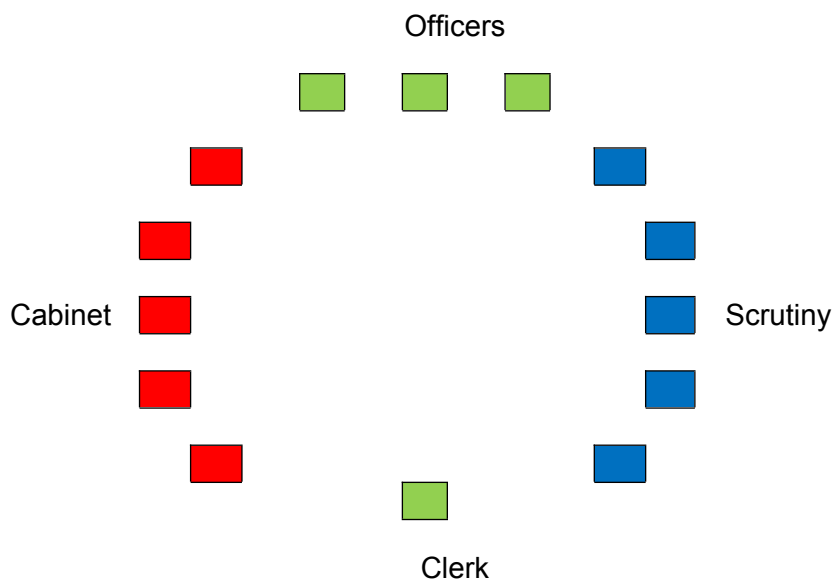
**INVESTMENT CABINET AND SCRUTINY BRIEFING**

Principles for scrutiny to be effective – must have relevant information and must be sufficiently engaged to add value.

Suggestions for the round table Cabinet/Scrutiny Briefing :

1. This pre-briefing must be sufficiently in advance to make any meaningful changes to the proposal.
2. Cabinet and Scrutiny members to sit at the same time in private.
3. Cabinet receives the paper. Officers are present to answer questions and inform debate.
4. Leader invites Scrutiny to ask questions of officers and debate issue. Leader asks Scrutiny if they wish to make any observations.
5. Cabinet, having considering their own questions and having listened to Scrutiny questions and debate and having considered any representations from Scrutiny, make a decision whether this should go forward and whether any changes need to be made.
6. Scrutiny indicates if it are content and call-in waived – officers may proceed and Cabinet report will state Scrutiny engagement.

**Layout**



**Investment Report on [Insert subject]  
Investment Cabinet on [Insert date of meeting]**

<b>PURPOSE OF REPORT</b>			
To consider the investment proposal in respect of [ ]			
<b>Key Decision</b>	<b>X</b>	<b>Date of Notice of Forthcoming Key Decision</b>	[Insert date published]
<b>This report is exempt from publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972</b>			

## 11.0 Options and Options Analysis [including risk assessment]

	<b>Option 1:</b> Asset acquisition/disposal	<b>Option 2:</b> Do nothing
Advantages		
Disadvantages		
Risks		

<b>RELATIONSHIP TO POLICY FRAMEWORK</b>  [Not an excluded investment or similar]	
<b>CONCLUSION OF IMPACT ASSESSMENT</b> (including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing)  [Insert conclusion of impact assessment]	
<b>LEGAL IMPLICATIONS</b>  [Insert Legal Implications before submitting to Legal Services]	
<b>FINANCIAL IMPLICATIONS</b>  [Insert Financial Implications]	
<b>OTHER RESOURCE IMPLICATIONS, such as Human Resources, Information Services, Property, Open Spaces:</b>  [Insert Other Resource Implications]	
<b>SECTION 151 OFFICER'S COMMENTS</b>  [Insert Section 151 Officer comments prior to Management Team]	
<b>MONITORING OFFICER'S COMMENTS</b>  [Insert Monitoring Officer comments prior to Management Team]	
<b>BACKGROUND PAPERS</b>  Framework for Budget and Policy	<b>Contact Officer:</b> Richard Crompton <b>Telephone:</b> 01524 582000 <b>E-mail:</b> <a href="mailto:rcrompton@lancaster.gov.uk">rcrompton@lancaster.gov.uk</a> <b>Ref:</b>