

Agenda

Executive Committee

Date:	Tuesday, 30 January 2024 at 6:30 pm
Venue:	Town Hall, St Annes, FY8 1LW
Committee members:	Councillor Karen Buckley (Chairman) Councillor Richard Redcliffe (Vice-Chairman) Councillors Tim Armit, Peter Collins, Chris Dixon, Ellie Gaunt, Karen Henshaw JP, Matthew Lee, Michelle Morris, Ed Nash, Jayne Nixon, Tommy Threlfall.

Public Platform

To hear representations from members of the public in accordance with Article 15 of the Constitution.
To register to speak under Public Platform: see [Public Speaking at Council Meetings](#).

	PROCEDURAL ITEMS:	PAGE
1	Declarations of Interest: Declarations of interest, and the responsibility for declaring the same, are matters for elected members. Members are able to obtain advice, in writing, in advance of meetings. This should only be sought via the Council's Monitoring Officer. However, it should be noted that no advice on interests sought less than one working day prior to any meeting will be provided.	1
2	Substitute Members: Details of any substitute members notified in accordance with council procedure rule 23(c).	1
3	Confirmation of Minutes: To confirm the minutes, as previously circulated, of the meeting held on 5 December 2023 as a correct record.	1
	DECISION ITEMS:	
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5	Medium Term Financial Strategy - Financial Forecast Update 2023/24 to 2027/28	14 - 26
6	Improvements to Childrens' Play Areas 2023/24	To Follow
7	Citizens Advice Fylde – Service Level Agreement	To Follow
8	Kirkham Futures - Conversion of Former TSB Building – Capital Programme Drawdown	29 - 32
9	Lytham Institute	33 - 58

Contact: Katharine McDonnell - Telephone: (01253) 658550 – Email: democracy@fylde.gov.uk

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<http://fylde.cmis.uk.com/fylde/DocumentsandInformation/PublicDocumentsandInformation.aspx>

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DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF REVENUES AND BENEFITS - SHARED SERVICE	EXECUTIVE COMMITTEE	30 JANUARY 2024	4
COUNCIL TAX REDUCTION SCHEME 2024/25			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

RELEVANT LEAD MEMBER

This item is within the remit of Lead Member for Finance and Resources (Councillor Ellie Gaunt).

PURPOSE OF THE REPORT

From April 2013 the local Council Tax Reduction Scheme (CTRS) replaced the previous national scheme of Council Tax Benefit. The scheme that operates within Fylde borough for 2023/24 was approved by this Council in December 2022 for 2023/24 only.

This report sets out the proposals in respect of the scheme for 2024/25. At the February Council meeting Members will be requested to approve the details of a CTRS for 2024/25.

RECOVERABILITY

This decision is not recoverable because it relates to:

- A recommendation to the council or to any other committee or sub-committee of the council

RECOMMENDATIONS

Having due regard to the Equality Analysis as detailed in section 5 of this report the Committee is requested to:

1. Recommend to Council the continuation of the existing CTRS scheme for 2024/25 as set out in section 3 of this report;
2. Recommend to Council the continuation of Discretionary Hardship Relief for 2024/25 to provide additional support for claimants in exceptional circumstances;
3. Recommend that Council approve, as necessary, that the financial implications are reflected in the Council's Revenue Budget and Financial forecast for 2024/25 onwards; and
4. Authorise the Deputy Chief Executive to make any necessary final amendments to the scheme arising from changes in Government guidance or elsewhere and to bring any such changes to the next full Council meeting for approval.

REPORT

1. Background to the CTRS Introduction and the adopted schemes for 2013/14 to 2023/24

- 1.1 As part of the 2012 Welfare Reform Act the national Council Tax Benefit (CTB) scheme was abolished and individual local authorities were instead required to introduce a local Council Tax Reduction Scheme (CTRS)

with effect from 1st April 2013. Accordingly, the Council introduced such a scheme and has updated the scheme annually since that date.

- 1.2 In December 2022 the Council approved a scheme for 2023/24. For working-age claimants (i.e. those not protected by the national scheme for pension-age claimants) there would be a means-tested assessment to establish entitlement and a maximum percentage reduction in the level of support at the end of that assessment of 22.7%. This is the same maximum percentage reduction in the level of support which has operated since the commencement of the scheme in 2014/15.

2. Key points arising from implementation of the local CTRS to date

- 2.1 No evidence has emerged to suggest that the scheme is in need of fundamental revision. The scheme has embedded well with no formal legal challenge to the principles of the scheme.
- 2.2 Experience of operating the scheme indicates that a 22.7% maximum reduction in the level of support is the correct level at which the scheme is self-funding, based on the initial level of funding provided for the scheme by way of specific grant from central government. However, support for the scheme is now part of the general central government funding and is not separately identifiable.
- 2.3 As at the end of November 2023, the number of claimants eligible for council tax support was 4,991 compared to 5,098 at the end of November 2022, a decrease of 107.

The latest estimate of the cost of the CTRS for 2023/24 is £5,385,093 which is split between this Council and the major preceptors, with Fylde Council's share being £544,433.

For 2022/23 the total scheme cost was £5,168,104, with the Fylde Council share being £543,685, the increase in total cost for 2023/24 being attributable to the increase in Council Tax levels by each of the major preceptors for 2023/24 (Fylde Council effectively froze Council Tax for 2023/24 at the 2022/23 level).

In 2013/14 when the scheme was first introduced funding was provided by way of specific government grant to meet the estimated costs of the scheme. Subsequently, funding was provided via Revenue Support Grant and is now subsumed within general central government funding calculations.

Additionally, the Council receives a specific grant as a contribution towards the cost of administering the CTRS which for 2023/24 is in the sum of £80,399.

- 2.4 For 2023/24, as at 30th November 2023, a total of 11 hardship awards have been made under the existing discretionary hardship scheme. For 2022/23, as at 30th November 2022, a total of 23 hardship awards had been made.

3. Proposed CTRS for 2024/25

- 3.1 It is proposed that the 22.7% maximum reduction in the level of support is retained for the 2024/25 CTRS.
- 3.2 It is further proposed that the scheme for 2024/25 will continue to provide for an additional discretionary award which may also be granted in accordance with S13A (1) (a) or S13A (1) (c) of the Local Government Finance Act 2012.

The full details of the proposed scheme for 2024/25 is available on the Fylde Council website at:

<https://new.fylde.gov.uk/council-tax-reduction-scheme/>

- 3.3 A consultation paper was distributed to the Major Preceptors - Lancashire County Council, Lancashire Fire and Rescue Service and the Lancashire Police and Crime Commissioner in December 2023 seeking their views on the proposed scheme for 2024/25. The consultation and a summary of the responses of each are set out in the appendices to this report. In summary, all of the major preceptors are supportive of the proposals for the 2024/25 CTRS set out in this report.
- 3.4 Although there are no changes to the scheme proposed for 2024/25, the Equality Analysis that has been carried out in previous years for the CTRS scheme has been reviewed. This aims to mitigate the impact on

protected groups. As part of their consideration of the CTRS scheme for 2024/25 Members must read the Equality Analysis which is available on the Fylde Council website at:

<https://new.fylde.gov.uk/council-tax-reduction-scheme/>

4. Hardship Relief

4.1 The provision of Discretionary Hardship Relief to provide support for claimants in exceptional circumstances, and who are unable to increase their income from other means, is a key element of the operation of the scheme. Section 76 of the Local Government Act 2003 in respect of Council Tax (as amended by section 13A of the Local Government Finance Act 2012) empowers a billing authority to reduce the amount of Council Tax as it thinks fit. Funding for such reductions must be provided by the Council and major preceptors as necessary.

4.2 In order to mitigate part of the impact of the CTRS on the most vulnerable households, the Council has adopted a Discretionary Discount Policy under the above powers. Strict criteria are used to determine if any additional relief is appropriate and the level of any such award. Awards are made only in exceptional circumstances to those unable to increase their income. The Council's current Discretionary Discount Policy is available on the Fylde Borough Council website at:

[Discretionary-Discount Policy 2023.24](#)

The Discretionary Discount Policy for 2024/25 will be accessible on the website as and when approved.

4.3 It is proposed that for 2024/25 the Council Tax Reduction Scheme will continue to provide for additional discretionary awards which may also be granted in accordance with S13A (1) (a) or S13A (1) (c) of the Local Government Finance Act 2012.

5. Equality Analysis

5.1 The Council has carried out a detailed and robust Equality Analysis which is available on the Council's website as described in paragraph 3.4. The impact of CTRS has been considered on people based on the following characteristics:

- Age
- Disability
- Sex and sexual orientation
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief

The analysis also contains a detailed action plan showing how the issues identified will be addressed and the monitoring arrangements that have been put in place.

6. Conclusion

6.1 At the February 2024 Council meeting Members will be requested to agree a local Council Tax Reduction Scheme for 2024/25 which (as is the case for the scheme currently in operation) will incorporate a reduction in awards to working age claimants at the same level as has been in operation for previous years.

6.2 The Council will be presented with the proposals for the 2024/25 scheme as described in this report, subject to any required changes in the intervening period as a consequence of new government regulations or other announcements. For 2024/25 it is proposed that the percentage reduction made at the end of the assessment for working age claimants shall remain as for previous years at 22.7%.

6.3 Schedule 6 of the Council Tax Reduction Scheme will detail the percentage reduction in support to working age claimants once the scheme design has been determined by Council and following any final minor adjustments to the calculation of costs for 2024/25. That Schedule forms part of the adopted scheme.

6.4 A review of the Scheme (including the percentage reduction in support detailed within Schedule 6 of the Scheme) is carried out annually to ensure it remains fit for purpose taking account of ongoing changes in legislation, caseload and financial requirements. Therefore, any decision with regard to changes to the CTRS will be in respect of 2024/25 only.

IMPLICATIONS	
Finance	The Councils Financial Forecast includes estimates of future Council Tax income at levels which take account of the effects of the CTRS scheme, that being to reduce the total amounts of Council Tax collected through the award of reliefs for eligible claimants.
Legal	As part of the 2012 Welfare Reform Act the national Council Tax Benefit (CTB) scheme was abolished after 2012/13, with individual local authorities instead being required to introduce a local Council Tax Reduction Scheme (CTRS) with effect from 2013/14 and subsequent years.
Community Safety	None
Human Rights and Equalities	An Equality Analysis has been carried out and is available on the Council's website as detailed in the report.
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	The elements of the working age scheme will need to be reviewed annually to avoid increased financial risk to the Council.

SUMMARY OF PREVIOUS DECISIONS

The Council Tax Reduction Scheme in operation for 2023/24 was approved at the Council meeting of 5th December 2022. The full scheme is available on the Fylde Borough Council website at:

<https://new.fylde.gov.uk/council-tax-reduction-scheme/>

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	✓

LEAD AUTHOR	CONTACT DETAILS	DATE
Louise Jones, Head of Revenues and Benefits - Shared Service	01253 478885	January 2024

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
n/a	n/a	n/a

Attached documents:

Appendix A - Consultation with Major Preceptors on the design of the local scheme

Appendix B - Consultation Responses from Major Preceptors

Appendix A

Fylde Borough Council - Council Tax Reduction Scheme 2024/25 – Consultation with major preceptors on the design of the local scheme.

Summary:

This paper sets out the proposed Council Tax Reduction Scheme (CTRS) that will operate in Fylde borough for the year 2024/25.

Introduction:

The scheme that currently operates within Fylde borough was approved by this Council in December 2022.

That Scheme, in summary, is one which:

- maintains most of the previous council tax benefit rules but reduces the award by a standard percentage at the end of the calculation for working age claimants such that the CTRS is self-funding ie. That the scheme does not result in the loss of Council Tax income to Fylde Council or the major preceptors. The claimant has to pay this amount to the Council as their contribution to Council Tax.
- in 2023/24 the maximum percentage reduction in support in respect of working-age claimants is 22.7%.
- includes the national scheme which protects claimants of pensionable age from any reductions.
- provides a Discretionary Hardship Fund to support claimants in exceptional circumstances who are unable to increase their income from other means.

The full Scheme is available on the Fylde Borough Council website at

<https://new.fylde.gov.uk/council-tax-reduction-scheme/>

The proposed 2024/25 Scheme:

It is proposed that for 2024/25 the scheme be one which maintains most of the previous council tax benefit rules but reduces the level of the award by a standard percentage at the end of the calculation for working age claimants. Each of the adopted local schemes since 2013/14 have been in accordance with this principle. It is not intended to change this element of the design in respect of 2024/25.

Council Members will be asked to agree a scheme of Council Tax Support in February 2024. The principles for the 2024/25 scheme will remain that it needs to:

- § be affordable in terms of grant received, revenue loss and costs to operate
- § be as fair as possible and a detailed 'map' of those affected is required; a detailed Equality Analysis is required
- § be transparent, understandable to customers and practical to operate
- § be feasible to implement within the constraints of the timescales and available software
- § be simple in design avoiding unnecessary complexity
- § avoid the costs and risks associated with collecting additional data

Changes to the Scheme for 2024/25

It is proposed that the 2024/25 scheme will have the same design principles as that currently in operation and no changes are proposed.

It is proposed that the scheme for 2024/25 will:

- Maintain the current council tax support rules and reduce the level of support by a specified percentage level at the end of the calculation (bottom slice) such that the CTRS is self-funding. It is estimated that for working-age recipients the maximum reduction in the level of support will be between 20% - 25%.
- Provide for an additional discretionary award which may also be granted in accordance with S13A (1) (a) or S13A (1) (c) of the Local Government Finance Act 2012.
- Include the national scheme for pension age claimants for whom there is no reduction in the level of support.

Hardship Fund

The existence of a Discretionary Hardship Fund to provide support for claimants in exceptional circumstances who are unable to increase their income from other means is a key element of the operation of the scheme.

It is proposed that for 2024/25 the Council Tax Reduction Scheme will provide for an additional discretionary award which may also be granted in accordance with S13A (1) (a) or S13A (1) (c) of the Local Government Finance Act 2012.

Consultation Questions

1. Do you agree or disagree that the 2024/25 Fylde Council Tax Reduction Scheme should be based on the existing rules with the final award made to a working age claimant being reduced so that the maximum reduction in the level of support is between 20% - 25%? (note: the maximum reduction in the level of support under the scheme for 2023/24 is 22.7%).
2. Do you agree or disagree that the 2024/25 Fylde Council Tax Reduction Scheme should remain the same as the scheme in operation for 2023/24?
3. Do you have any suggested changes to the 2024/25 Fylde Council Tax Reduction Scheme?
4. Hardship Fund – Please provide your views on the proposal to continued operation of a Hardship Fund alongside the CTRS scheme to provide support in exceptional circumstances to the most vulnerable claimants.
5. Hardship Fund – Please provide your views on the inclusion of a hardship fund as an additional discretionary award which may also be granted in accordance with S13A (1) (a) or S13A (1) (c) of the Local Government Finance Act 2012.
6. Do you have any other comments to make about the proposed 2024/25 Fylde Council Tax Reduction Scheme?

The Council appreciates the potential impact of the final scheme on its own finances and those of other preceptors. However, at the same time it needs to balance this against the impact it will have in respect of low-income Council Tax payers of the Borough. The Council recognises that other preceptors may have strong opinions in respect of the final scheme that is adopted. It is important therefore that the opinion of all interested parties is reported and forms part of the consideration by the elected members in making a final decision.

Responses

Please provide your responses by e-mail by 10th January 2024.



Paul O'Donoghue
Fylde Council
St Annes Road West
LYTHAM ST ANNES
FY8 1LW

Please ask for: Steven Brown
Telephone: 01772 866804
Email: stevenbrown@lancsfireandrescue.org.uk
Your Ref: P O'Donoghue
Our Ref: SB/JLW
Date: 22 December 2023

FOA Paul Swindells

Dear Paul

FYLDE BOROUGH COUNCIL – COUNCIL TAX REDUCTION SCHEME 2024/25 - CONSULTATION WITH MAJOR PRECEPTORS ON THE DESIGN OF THE LOCAL SCHEME

Further to your letter dated 12 December 2023, I support the Members of Fylde Council in ensuring that the scheme awards relief towards Council Tax that is payable by the applicants who are suffering financial hardship. I also support incentives for owners of long-term empty homes and second homes to bring their properties back into use.

Yours sincerely

A handwritten signature in black ink, appearing to be "S Brown".

Steven Brown
Director of Corporate Services

Headquarters

Lancashire Fire & Rescue Service
Garstang Road, Fulwood
Preston
PR2 3LH





Paul Swindells
Paul O'Donoghue

Phone: 01772 535259
Fax:
Email: Steve.freeman@lancashire-
pcc.gov.uk
Your ref: P O'Donoghue
Our ref: SF
Date: 5 January 2024

BY EMAIL

Dear Paul

Fylde Borough Council - Council Tax Reduction Scheme 2024/25 – Consultation with major preceptors on the design of the local scheme.

Thank you for your letter consulting the Police and Crime Commissioner for Lancashire on the approach that Fylde Borough Council intends to adopt in continuing its scheme for Council Tax Support from April next year. We very much welcome the opportunity to provide our views on the proposals.

It remains the strong view of the Commissioner that the proposed scheme for council tax support must:

- Be affordable in terms of grant received, revenue loss and costs to operate
- Be as fair as possible
- Be transparent, understandable to customers and practical to operate;
- Be feasible to administer within the constraints of the timescales and available software;
- Be simple in design, avoiding unnecessary complexity;
- Avoid the costs and risks associated with collecting additional data.

In respect of your scheme for 2024/25 the Commissioner agrees that the proposed approach is appropriate as it offers protection to the most vulnerable individuals as identified within the existing Council Tax system and offers no additional costs to the Billing and Precepting authorities.

In response to your specific consultation questions please see the following:

1. Do you agree or disagree that the 2024/25 Fylde Council Tax Reduction Scheme should be based on the existing rules with the final award made to a working age claimant being reduced so that the maximum reduction in the level of support is between 20% - 25%? (note: the maximum reduction in the level of support under the scheme for 2023/24 is 22.7%).

Agree



2. Do you agree or disagree that the 2024/25 Fylde Council Tax Reduction Scheme should remain the same as the scheme in operation for 2023/24?

Agree

3. Do you have any suggested changes to the 2024/25 Fylde Council Tax Reduction Scheme?

None

4. Hardship Fund – Please provide your views on the proposal to continued operation of a Hardship Fund alongside the CTRS scheme to provide support in exceptional circumstances to the most vulnerable claimants.

We agree this arrangement should remain in place

5. Hardship Fund – Please provide your views on the inclusion of a hardship fund as an additional discretionary award which may also be granted in accordance with S13A (1) (a) or S13A (1) (c) of the Local Government Finance Act 2012.

We agree this should be in place provided decision making on such awards is the responsibility of elected members

6. Do you have any other comments to make about the proposed 2024/25 Fylde Council Tax Reduction Scheme?

None

We thank you for the opportunity to take part in the consultation and are happy to discuss any of the responses we have provided with you further.

Yours sincerely

Steve Freeman
Chief Finance Officer
The Office of the Police and Crime Commissioner for Lancashire

Mr P O'Donoghue
Chief Financial Officer
Fylde Borough Council
Town Hall
LYTHAM ST ANNES
Lancashire



Phone: (01772) 536154
Email: neil.kissock@lancashire.gov.uk

Your ref P O'Donoghue
Our ref NK
Date: 28th December 2023

Dear Paul

COUNCIL TAX REDUCTION SCHEME CONSULTATION 2024/25

Thank you for your letter of 12th December 2023 consulting Lancashire County Council on the approach that Fylde Borough Council intends to adopt in continuing its scheme for Council Tax Support. We very much welcome the opportunity to provide our views on the proposals.

It remains the strong view of Lancashire County Council that the proposed scheme for Council Tax Support must:

- Be affordable in terms of grant received, revenue loss and costs to operate;
- Be as fair as possible;
- Be transparent, understandable to customers and practical to operate;
- Be feasible to implement within the constraints of the timescales and available software;
- Be simple in design, avoiding unnecessary complexity;
- Avoid the costs and risks associated with collecting additional data.

In response to your questions, I would submit the following:

1. Do you agree or disagree that the 2024/25 Fylde Council Tax Reduction Scheme should be based on the existing rules with the final award made to a working age claimant being reduced so that the maximum reduction in the level of support is between 20% - 25%? (note: the maximum reduction in the level of support under the scheme for 2023/24 is 22.7%).

We agree that the existing rules should continue and that the maximum reduction in support should remain between 20%-25%.

Continued

Neil Kissock
Director of Finance
County Hall, PO Box 100, Preston, Lancashire PR1 0LD
DX 710928 PRESTON COUNTY HALL

Appendix B

2. Do you agree or disagree that the 2024/25 Fylde Council Tax Reduction Scheme should remain the same as the scheme in operation for 2023/24?

We agree that the 2024/25 scheme should remain the same as the scheme in operation for 2023/24.

3. Do you have any suggested changes to the 2024/25 Fylde Council Tax Reduction Scheme?

None

4. Hardship Fund – Please provide your views on the proposal to continued operation of a Hardship Fund alongside the CTRS scheme to provide support in exceptional circumstances to the most vulnerable claimants.

We agree with the continued operation of the Hardship Fund to provide support in exceptional circumstances.

5. Hardship Fund – Please provide your views on the inclusion of a hardship fund as an additional discretionary award which may also be granted in accordance with S13A (1) (a) or S13A (1) (c) of the Local Government Finance Act 2012.

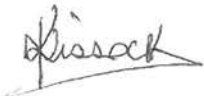
We do not object to the additional discretionary award. However, we feel that it is fair and appropriate that Fylde Borough Council should maintain a cost neutral scheme. At a time when resources are extremely limited, it is vital that the operation of the scheme does not pass on additional costs to precepting authorities.

6. Do you have any other comments to make about the proposed 2024/25 Fylde Council Tax Reduction Scheme?

We have no further comments to make about the proposed scheme.

We thank you for the opportunity to take part in the consultation and are happy to discuss our response with you further should you wish.

Yours sincerely



Neil Kissock
Director of Finance

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
CHIEF FINANCIAL OFFICER	EXECUTIVE COMMITTEE	30 JANUARY 2024	5
MEDIUM TERM FINANCIAL STRATEGY - FINANCIAL FORECAST UPDATE 2023/24 TO 2027/28			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

RELEVANT LEAD MEMBER

This item is within the remit of Lead Member for Finance and Resources (Councillor Ellie Gaunt).

PURPOSE OF THE REPORT

This report provides Members with an update of the financial forecast for the council for the five years 2023/24 to 2027/28. The main purpose of this iteration of the forecast is to reflect the impact of the provisional 2024/25 Local Government Finance Settlement, details of which were announced on 18th December 2023. The assumptions set out in this forecast are the latest best estimates and will be updated as and when further information is made available.

RECOVERABILITY

This decision is not recoverable because it relates to:

- A recommendation to the council or to any other committee or sub-committee of the council.

RECOMMENDATION

The Committee is recommended:

1. To note the implications of this updated financial forecast, and to also note that this update report will be presented to the Council meeting on 12th February 2024.

REPORT

1. PURPOSE OF THE FINANCIAL FORECAST UPDATE

- 1.1 This report updates the financial forecast which was considered by this Committee and by Council in December 2023. Attached at Appendix A is the financial forecast position reported to Members at Budget Council in March 2023. Appendix B shows the general assumptions underpinning the base forecast, whilst Appendix C sets out the latest changes and Appendix D sets out the supporting narrative to the latest changes. **Appendix E details the latest updated forecast position.**
- 1.2 The forecast has been updated to reflect the estimated impact of the 2024/25 Local Government Finance Settlement, announced on 18th December 2023.

- 1.3 This latest financial forecast update is designed to:
- Present an updated five-year financial forecast for revenue following the announcement of the Local Government Finance Settlement in December 2023;
 - Review the currently identified risks and opportunities;
 - Alert Members to any new specific risks and opportunities;
 - Inform Members of any changes required to budgets due to external factors outside the Council's control; and,
 - Provide a basis upon which Members can consider future spending and budget decisions.

2. THE CAPITAL PROGRAMME

- 2.1 The in-year position on the Capital Programme, along with the associated financial risks, was reported at the November meeting of the Internal Affairs Scrutiny Committee. Following this, in December 2023 both Executive Committee and Council received updates on the council's Medium Term Financial Strategy (MTFS) which included details of the capital programme.
- 2.2 Any future capital financing issues facing the Council will be addressed as part of the Council's budget proposals for 2024/25 which will be published in mid-February 2024.

3. KEY CHANGES TO THE GENERAL FUND REVENUE BUDGET FORECAST

- 3.1 The changes to the General Fund Revenue Forecast are those arising from the Local Government Finance Settlement, together with some further in-year revenue budget changes identified as a result of ongoing budget monitoring. These are detailed below:

The 2024/25 Local Government Finance Settlement

On 18th December 2023, the Secretary of State for the Department for Levelling Up, Housing and Communities (DLUHC), Rt. Hon. Michael Gove MP, released a written statement to Parliament on the provisional local government finance settlement 2024-25. The papers can be viewed [by clicking here](#). This followed a policy statement on the future of Local Government Finance published on 5th December, covering 2024 to 2025. The policy statement can be viewed here: [Local government finance policy statement 2024 to 2025](#)

The bulk of the December 2023 policy statement confirms the announcements of the [2023/24 Local government finance policy statement](#), released in December 2022 which was intended to provide councils with forward notice of the proposals for the 2024/25 settlement.

As such the 2024/25 provisional settlement is once again a single-year settlement and no details have been provided in respect of subsequent years.

The broad approach is based on a uniform roll-over of the core elements of the settlement; additional resources for priority services (in particular social care); balancing service pressures with taxpayer concerns through council tax referendum principles; and a fallback, by way of a minimum funding guarantee to ensure that all councils see a minimum increase in their Core Spending Power year on year.

The declared aim is stability for budgeting purposes (which in turn requires a delay to all significant policy changes). Consequently, the settlement contains no new public policy and no specific plans or timescales for the implementation of reform to the mechanisms by which local authorities are funded. Similarly, there are no new resources for service provision arising from the provisional settlement.

FURTHER DELAYS TO FINANCE REFORM

The history of proposed reform to local government financing mechanisms stretches back a number of years without significant progress on the matter.

The policy statement did confirm, however, that the government is 'committed to improving the local government finance landscape in the next Parliament', though no details of future reform are provided.

At the earliest, the implementation of any reform will not now be until 2025/26 - or realistically, depending on the timing and outcome of the General Election and the appetite of the new government for reform, until perhaps 2026/27.

The key points arising from the **Provisional Finance Settlement** for Fylde Council in respect of **2024/25** are:

a) Confirmation of acceptance of the bid by Lancashire authorities to continue to operate Business Rate Pooling arrangements for 2024/25

The continuation of a Lancashire-wide Business Rates Pool was confirmed for 2024/25, subject to no single member of the pool exercising their right to withdraw from the pool within 28 days of the Finance Settlement announcement (as per the terms of the pooling arrangement) which would cause the pool to end. It is not expected that any member of the Lancashire Business Rates pool will exercise this option for 2024/25. The latest in-year monitoring and future modelling suggest that continued participation in a Lancashire Business Rate Pool for 2024/25 will be of financial benefit to Fylde Council, as it has been since participation in the pool commenced.

b) Confirmation of a single year New Homes Bonus allocation in 2024/25

The provisional settlement confirms a single-year allocation for 2024/25 in the sum of £570k and that there are to be no changes to the New Homes Bonus until after the next election, contrary to the settlement announcement for 2023/24 which stated that there would be a review of the system during 2023.

Given that New Homes Bonus is a major source of funding for the Council this represents a significant risk to the overall level of future central government funding.

The forecast of New Homes Bonus income for 2024/25 has been updated in line with the provisional allocation announced in the settlement. In respect of all other years, due to the uncertainty surrounding future funding levels, the estimated amounts for 2025/26 onwards are in line with the allocation for 2024/25 and are subject to change as and when further announcements in respect of the scheme are made.

c) Other Government Grants for 2024/25

Other grant changes were also announced in respect of 2024/25 as part of the provisional settlement which for Fylde Council were as follows:

- Services Grant - an allocation for Fylde of £12k in 2024/25 (reduced from £75k in 2023/24);
- Revenue Support Grant – an allocation for Fylde of £104k (increased from £98k in 2023/24) and
- The continuation of the “one-off/for 2023/24 only” Funding Guarantee Grant for with an allocation for Fylde of £941k in 2024/25 (increased from £871k in 2023/24). The Funding Guarantee grant aims to ensure all local authorities receive a minimum 3% “Core Spending Power” increase from 2023/24, excluding any funding from increases to 2023/24 council

tax levels. Core Spending Power is a measure used by the government of the resources available to local authorities to fund service delivery. It sets out the money that has been made available through the Local Government Finance Settlement. The calculations made by the government to assess Core Spending Power assume that business rate income is receivable at the baseline level, whereas actual business rate income is subject to variation from the baseline level. The calculation also estimates the council tax base for the coming year based on the average increase on the tax based over the last 4 years, whereas the actual tax base for 2024/25 is below the average increase of the last 4 years.

These updated grant allocations for 2024/25 have been reflected in the summary at Appendix E to this report.

d) Confirmation of the 2024/25 General Council Tax Referendum Principles

The council tax referendum limit for 2024/25 will be 2.99% for local authorities, with an additional 2% social care precept allowed for social care authorities (not Fylde). The 2.99% figure is the same as that for 2023/24 and is the level of increase that is assumed by DLUHC when calculating the core spending power of individual councils. Appendix E of this report assumes an increase in council tax of 2.99% per annum in line with the maximum amount that can be applied without the requirement for a local referendum on this matter.

3.2 Estimates of Government Funding Beyond 2024/25

3.3 Estimating the level of funding for local authorities beyond 2024/25 is problematic in light of short-term settlements, national pressures on public finances as a whole, continuing delays to the reform of local government funding mechanisms as well as the changes that may result from a general election due to take place within the next twelve months.

3.4 **Accordingly, the estimates of government funding contained in the financial forecast at Appendix E of this report have been calculated on a continuation basis and to assume an overall protection of the council's "Core Spending Power" for 2025/26 onwards. This is considered to be the best estimate available given the various uncertainties as outlined in the report.**

4. Other Financial Forecast Changes and Risks

4.1 The Financial Forecast has also been updated to reflect the following changes:

a) New Homes Bonus Distribution to Town and Parish Councils

The Finance and Democracy Committee meeting in November 2022 approved that with effect from 2023/24, and for all financial years thereafter, in the event that Fylde Council receives confirmation of an allocation of New Homes Bonus grant for each year, 5% of that grant will be distributed to town and parish councils that have experienced above average housing growth in the previous year using the established distribution methodology. Following the confirmation of the amount of New Homes Bonus grant as part of the 2024/25 financial settlement, allocations of a proportion of this grant to town and parish councils have been calculated in the total sum of £28,489. The financial consequence of this decision is contained within the summary Financial Forecast at **Appendix E** to this report and individual allocations to Town and Parish Councils are shown at **Appendix F**.

b) Other budget adjustments

A number of further budget adjustments have been made to this updated financial forecast in light of the most recent budget monitoring and a further budget-rightsizing review undertaken since the

forecast was last updated. These are included within the variance analysis at **Appendix C** to this report and an explanation of each is provided at Appendix D. Council Tax income projections have also been updated from the December financial forecast to reflect the actual council tax base information for 2024/25 which was finalised in late December 2023.

4.2 Other Continuing Financial Risks

All of the financial risks that were detailed within the previous Financial Forecast Update that was presented to the last Executive Committee meeting and to Council in December 2023 remain. These are:

- **Future Central Government Funding Reductions**
- **Further Delays to the 'Fair Funding Review'**
- **Retained Business Rates**
- **Price Inflation**
- **Employee Costs – Pay Award**
- **Borrowing Costs Assumptions**
- **Treasury Management – Investment Income Receipts**
- **Grounds Maintenance (External Contracts)**
- **The Living Wage**
- **Planning Application Fee Income**
- **Reforms of Waste Collection, including Food Waste**

Full details of each of these can be found within the December 2023 Financial Forecast report via the following link: [December Financial Forecast update](#)

5. CONCLUSIONS

- 5.1 The provisional 2024/25 Local Government Financial Settlement has not fundamentally changed the general financial standing of Fylde Council, albeit there is no longer a requirement for a contribution from the Funding Volatility Reserve to maintain minimum balances in the final year of the forecast. The modest increase in central government funding as summarised in Appendix E is to be welcomed as this improves the financial position of the Council in the short term. It should be noted that the increase in forecast Council Tax income (the single element of the financing that is directly within the influence of this council) is of greater significance than the grant increases from central government over which the council has no control. Based on the assumptions and estimates as detailed in the report there is a projected surplus of resources for 2023/24 and 2024/25 followed by a period of uncertainty as the base costs of the council increases and the national framework for the financing of local government is subject to review.
- 5.2 The confirmation of the continuation of a Business Rates Pool amongst Lancashire authorities is welcomed. Although now not expected prior to the General Election which will take place within the next year, any developments with regard to future proposals (the implementation of a 'Fair Funding Review' encompassing a possible re-assessment of relative need within local government generally) will be followed closely and any implications reported within future Financial Forecast updates when known.
- 5.3 Estimations of central government funding beyond 2024/25 are extremely difficult to make until the outcome of the funding reviews are known. The Financial Forecast will be updated for 2024/25 onwards as and when there is greater clarity regarding the central government funding regime.
- 5.4 In order to maintain the current financial position and be able to deliver the Corporate Plan priorities the Council needs to continue with the approach to delivering savings and efficiencies and maximising income which have helped deliver balanced budgets over recent years. Ongoing modernisation work and business improvement will continue to make Council services more

efficient, save money and maintain frontline services to customers. This work has yielded ongoing savings to help improve the Council's overall financial position over that period.

- 5.5 Although it is clear that further uncertainty lies ahead, **the finances of the Council remain robust, and the reserves and balances are at healthy levels as compared to earlier periods.** Furthermore, the Council has a past record of taking actions in order to meet and overcome financial challenges as they arise. The Council will continue to seek opportunities to maintain a robust financial position in the face of a changing financial environment. This approach will ensure that the Council continues to achieve and sustain a balanced budget position on an ongoing basis and is able to deliver the priorities set out in the Corporate Plan.
- 5.6 The assumptions set out in this forecast are the latest best estimates and will be updated as and when further information becomes available.

IMPLICATIONS	
Finance	The financial implications are contained within the body of the report.
Legal	None arising from this report
Community Safety	None arising from this report
Human Rights and Equalities	None arising from this report
Sustainability and Environmental Impact	None arising from this report
Health & Safety and Risk Management	None arising from this report

SUMMARY OF PREVIOUS DECISIONS

The Council set its budget for 2023/24 at the meeting of 2nd March 2023. This report provides Members with a further update to the Council's financial forecast following the position that was considered by this Committee and Council in December 2023.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	√
Environment – To deliver services customers expect	√
Efficiency – By spending money in the most efficient way	√
Tourism – To create a great place to live and visit	√

LEAD AUTHOR	CONTACT DETAILS	DATE
Paul O'Donoghue Chief Financial Officer	www.fylde.gov.uk	January 2024

BACKGROUND PAPERS

Name of document	Date	Where available for inspection
Medium Term Financial Strategy (MTFS) Update, Including General Fund, Capital Programme and Treasury Management for 2022/23 – 2026/27	Budget Council meeting 2 nd March 2023	www.fylde.gov.uk
MTFS – Outturn Position For 2022/23 (Including General Fund, Capital Programme & Treasury Management)	Executive Committee meeting 25 th May 2023	www.fylde.gov.uk
Revenue Budget Monitoring Report 2023/24 – to 30 th September 2023	Internal Affairs Scrutiny Committee meeting 21 st November 2023	www.fylde.gov.uk
Capital Programme Monitoring Report 2023/24 – to 30 th September 2023	Internal Affairs Scrutiny Committee meeting 21 st November 2023	www.fylde.gov.uk
Medium Term Financial Strategy (MTFS) Update, Including General Fund, Capital Programme and Treasury Management for 2023/24 – 2027/28	Council meeting 18 th December 2023	www.fylde.gov.uk

Attached documents

1. Appendix A - Forecast approved at Budget Council in March 2023
2. Appendix B - Schedule of general assumptions underpinning the financial forecast
3. Appendix C - Schedule of changes to the forecast
4. Appendix D - Explanation of changes to the forecast
5. Appendix E - Updated latest forecast position
6. Appendix F – Allocations of New Homes Bonus to Town and Parish Councils 2024/25

Latest General Fund Budget Forecast 2022/23 to 2026/27 - as at March 2023

Appendix A

	2022/23 £000	2023/24 £000	2024/25 £000	2025/26 £000	2026/27 £000	Adverse / Favourable
Forecast approved at Council on 3rd March 2022	11,429	11,951	12,212	12,522	12,522	
Forecast Changes since March 2022 - per Appendix C of March 2023 MTFS	28	- 157	- 148	13	661	Adverse
Revenue Budget Growth Items - per Appendix F of March 2023 MTFS		38	39	40	42	Adverse
Forecast Budget Requirement: TOTAL	11,457	11,832	12,103	12,575	13,225	
Financed by:						
Council Tax Funding:						
Council Tax - Precept	6,881	7,002	7,231	7,466	7,707	
Sub Total - Council Tax Income	6,881	7,002	7,231	7,466	7,707	
Business Rates Funding:						
Retained Business Rates	3,580	3,580	3,401	3,231	3,069	
Sub Total - Business Rates Income	3,580	3,580	3,401	3,231	3,069	
Other Funding:						
Lower Tier Services Grant	89					
Services Grant	133	75	75	75	75	
New Homes Bonus (NHB)	1,236	516	516	516	516	
Less - NHB distribution to Town & Parish Councils	- 62	- 26	- 26	- 26	- 26	
Funding Guarantee Grant - one-off 2023/24 only		871				
Assumed "other" government funding to maintain "Core Spending Power"			821	756	677	
Sub Total - Other Income	1,396	1,436	1,386	1,321	1,242	
Forecast Financing: TOTAL	11,857	12,018	12,018	12,018	12,018	
Forecast surplus (-) / deficit for year	- 400	- 186	85	557	1,207	
Reserves						
Forecast surplus/deficit (-) for year from above:	400	186	- 85	- 557	- 1,207	
Less: Proposed Transfer to Capital Investment Reserve	- 400	- 186				
Balance of surplus/deficit(-) remaining:			- 85	- 557	- 1,207	
Balance of General Fund Reserves b/f	5,056	4,571	4,571	4,486	3,929	
Less in year transfer to fund slippage from 2021/22	- 485					
Less estimated transfer from (-) General Fund Reserves in year			- 85	- 557	- 1,207	
Forecast Reserves at Year End	4,571	4,571	4,486	3,929	2,722	
Band D Council Tax (Excl Parish Precepts)	£219.19	£218.89	£223.25	£227.69	£232.22	
Indicative Band D Average Council Tax Increase	£4.28	-£0.30	£4.36	£4.44	£4.53	
Band D Average Council Tax Increase	1.99%	-0.14%	1.99%	1.99%	1.99%	

General Base Budget Assumptions

The forecast has been prepared on the basis of the following assumptions:

- General Prices Inflation – a freeze or cash-limiting of all general revenue expenditure budgets with the exception of payroll budgets and where contractual commitments require increases;
- Slippage – approved underspend items from 2022/23 agreed by the Executive Committee in May 2023 have been slipped into 2023/24;
- Pay award – the impact of the agreed 2023/24 pay award of £1,925pa for each pay point has been reflected in the updated forecast, with future pay awards estimated to be 4% per annum for 2024/25 and 2025/26 and at 2.75% per annum thereafter;
- Employers Pension Contributions – the Council's contributions to the Lancashire pension fund scheme are set in accordance with the outcome of the 2022 Triennial Pension Review which was carried out by the scheme actuaries, Mercer. The figures provided by the pension fund confirmed contributions at 19.2% per annum, reduced by scheme surplus payments of 4% per annum for the period from 2023/24 to 2025/26; with future years estimates provided on a continuation basis. The forecast has been updated accordingly;
- Employer's National Insurance contributions – the forecast reflects the statutory contribution rates currently in place, including a reduced contribution rate as a result of the Council being part of the pension scheme;
- Council tax increases – the forecast has been prepared to include annual council tax increases at the current referendum threshold of 2.99% per annum from 2024/25 onwards;
- New Homes Bonus Grant – the forecast for 2024/25 onwards assumes a continuation of the 2024/25 level of New Homes Bonus as set out in Section 3.2(b) of the report;
- Fees and Charges – The forecast takes account of the revised fee levels as approved by Budget Council in March 2023. For future years budget-holders have reviewed fee levels as appropriate and any proposed changes to fees & charges will be considered at the Budget Council in March 2024 following consideration by Executive Committee. The forecast assumes additional income from fees and charges increases of £100k per annum from 2024/25 onwards;
- Vacancy Savings – the forecast assumes vacancy savings of £300k per annum from 2023/24 onwards; and
- Localisation of Council Tax Benefit Scheme – the forecast assumes a fully funded scheme with no additional cost to the Council from 2023/24 onwards; and
- Other Government Funding - the estimates of government funding contained in the financial forecast at Appendix E of this report have been calculated on a continuation basis and to assume an overall protection of the council's "Core Spending Power" for 2024/25 onwards. This is considered to be the best estimate available given the various funding uncertainties as outlined in the report.

General forecast changes since Council December 2023

	2023/24	2024/25	2025/26	2026/27	2027/28	
	£000	£000	£000	£000	£000	<u>ADVERSE /</u> <u>FAVOURABLE /</u> <u>NEUTRAL</u>
1 <u>CHANGES AS A RESULT OF MEMBER APPROVALS:</u>						
Lytham Festival - Executive Committee - Dec 2023	0	-35	-38	-41	-44	FAVOURABLE
Members Allowances - annual CPI increases wef 01/04/24 onwards - Council - Dec 2023	0	9	18	27	35	ADVERSE
2 <u>BUDGET RIGHTSIZING EXERCISE:</u>						
Revenue impact of budget right-sizing across all budget areas of the Council	-21	-12	-11	-11	-10	FAVOURABLE
3 <u>STAFFING COSTS:</u>						
Estimated impact of increase in living wage by 9.8% to £11.44 per hour wef 01/04/2025	0	35	35	35	35	ADVERSE
4 <u>UPDATED ESTIMATES OF INCOME BUDGETS:</u>						
Estimated additional income from annual fees and charges increases	0	-100	-200	-300	-400	FAVOURABLE
Updated estimates of Treasury Management investment interest receipts	-110	0	0	0	0	FAVOURABLE
Building Control - updated income based on current income	19	19	19	19	19	ADVERSE
TOTAL	-112	-84	-177	-271	-365	FAVOURABLE

Explanations of Forecast Changes set out in Appendix C

Appendix D

The following notes relate to specific adjustments made to the Forecast set out in Appendix C

(1) Changes as a Result of Member Approvals

The forecast that was approved at the Council meeting in March 2023 has been updated to reflect the financial impact of Member decisions made since then. The significant decisions in terms of their financial effect are detailed within the body of the report.

(2) Impact of budget-right-sizing exercise across all budget areas of the Council

Each year officers carry-out a budget right-sizing exercise focussing on a review of underspends across all budget areas and these have been updated and reflected through the forecast.

(3) Staffing Costs

The estimate for staffing costs has been amended to take account the announcement in the 2023 Autumn statement of a 9.8% increase in the living wage.

(4) Updated Estimates of Income Budgets

The forecast has been updated to include an estimate of annual increases in the total levels of income from fees and charges as a result of anticipated future increases in charge levels; an updated estimate of income from treasury investments; and a revised expectation of building control fee income.

Latest General Fund Budget Forecast 2023/24 to 2027/28 - as at January 2024

Appendix E

	2023/24 £000	2024/25 £000	2025/26 £000	2026/27 £000	2027/28 £000	<u>Adverse / Favourable</u>
Forecast approved at Council on 2nd March 2023	11,832	12,103	12,575	13,225	13,225	
Forecast Changes approved by Council - December 2023	11	- 25	232	308	933	Adverse Favourable
Forecast Changes since December 2023 - per Appendix C	- 112	- 84	- 177	- 271	- 365	
Forecast Budget Requirement: TOTAL	11,731	11,994	12,630	13,262	13,793	
Financed by:						
Council Tax Funding:						
Council Tax - Precept	7,002	7,261	7,571	7,893	8,227	
Council Tax - Collection Fund Surplus	40					
Sub Total - Council Tax Income	7,042	7,261	7,571	7,893	8,227	
Business Rates Funding:						
Retained Business Rates	3,580	3,401	3,231	3,069	2,916	
Sub Total - Business Rates Income	3,580	3,401	3,231	3,069	2,916	
Other Funding:						
Services Grant	75	12	12	12	12	
Revenue Support Grant	98	104	104	104	104	
New Homes Bonus (NHB)	516	570	570	570	570	
Less - NHB distribution to Town & Parish Councils	- 26	- 29	- 29	- 29	- 29	
Funding Guarantee Grant	871	941				
Assumed "other" government funding to maintain "Core Spending Power"			801	641	460	
Sub Total - Other Income	1,534	1,598	1,458	1,298	1,117	
Forecast Financing: TOTAL	12,156	12,260	12,260	12,260	12,260	
Forecast surplus (-) / deficit for year	- 425	- 266	370	1,002	1,533	
Reserves						
Forecast surplus/deficit(-) for year from above:	425	266	- 370	- 1,002	- 1,533	
Contribution to revenue from Funding Volatility Reserve	170					
Less: Proposed Transfer to Capital Investment Reserve	- 595	- 266				
Balance of surplus/deficit(-) remaining:			- 370	- 1,002	- 1,533	
Balance of General Fund Reserves b/f	5,006	4,571	4,571	4,201	3,199	
Less in year transfer to fund slippage from 2022/23	- 435					
Less estimated transfer from (-) General Fund Reserves in year			- 370	- 1,002	- 1,533	
Forecast GF Reserve Balance at Year End	4,571	4,571	4,201	3,199	1,666	
Band D Council Tax (Excl Parish Precepts)	£218.89	£225.43	£232.17	£239.11	£246.26	
Indicative Band D Average Council Tax Increase	-£0.30	£6.54	£6.74	£6.94	£7.15	
Band D Average Council Tax Increase	-0.14%	2.99%	2.99%	2.99%	2.99%	

New Homes Bonus - allocations to Town & Parish Councils 2024.25

	NHB Allocation 2024.25 - £
Bryning-with-Warton	13,307
Newton-with-Clifton	5,623
St.Annes	4,311
Kirkham	1,593
Elswick	1,312
Weeton-with-Preese	1,312
Ribby-with Wrea	937
Treales, Roseacre & Wharles	94
Total Allocation 2024.25	28,489
Freckleton	Nil growth in excess of baseline
Greenhalgh-with-Thistleton	Nil growth in excess of baseline
Westby-with-Plumpton	Nil growth in excess of baseline
Little Eccleston-with-Larbreck	Nil growth in excess of baseline
Medlar-with-Wesham	Nil growth in excess of baseline
Singleton	Nil growth in excess of baseline
Staining	Nil growth in excess of baseline

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF PLACE AND CULTURE	EXECUTIVE COMMITTEE	30 JANUARY 2024	6
IMPROVEMENTS TO CHILDREN'S PLAY AREAS 2023/ 2024			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

Please note that the "Improvements to Children's Play Areas 2023/ 2024" report is TO FOLLOW and will be circulated to members as soon as available.

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEPUTY CHIEF EXCEUTIVE	EXECUTIVE COMMITTEE	30 JANUARY 2024	7
CITIZENS' ADVICE FYLDE – SERVICE LEVEL AGREEMENT			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

Please note that the "Citizens' Advice Fylde – Service Level Agreement" report is TO FOLLOW and will be circulated to members as soon as available.

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF PROJECTS AND REGENERATION	EXECUTIVE COMMITTEE	30 JANUARY 2024	8
KIRKHAM FUTURES – CONVERSION OF FORMER TSB BUILDING – CAPITAL PROGRAMME DRAWDOWN			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

RELEVANT LEAD MEMBER

This item is within the remit of Lead Member for Corporate and Economic Development (Councillor Karen Buckley).

PURPOSE OF THE REPORT

One of the key projects to be delivered under the Kirkham Futures Programme banner is the conversion of the former girls' charity school (most recently occupied by TSB bank). This project was included within the Council's successful bid to the Government's Future High Street Fund in 2019.

The proposals received full planning permission in March 2023 (ref 22/0949) and include alterations and extensions to the former bank premises with use as a bar and restaurant. Subject to approval of the recommendations in this report the Council will seek to procure a suitable operator for the building during the construction phase of the project ready for occupation on completion of the works.

The report contains a summary of the tender process for the project and the Council are requested to approve the proposed capital expenditure and confirm contract award to the preferred contractor. Officers will provide a follow up report on Friday 26th January 2024 with details of the tender evaluation ahead of the Executive Committee meeting on the 30th January 2024.

RECOVERABILITY

This decision is not recoverable because it relates to:

A recommendation to the council or to any other committee or sub-committee of the council.

RECOMMENDATIONS

1. To approve the proposed capital expenditure of £(TBC) in respect to the scheme as outlined in this report. This includes expenditure of £(TBC) in 2023/2024 and £(TBC) in 2024/2025.
2. To approve the letting of the works contract to (insert contractor name) for £(TBC) to carry out the works as outlined within this report.

REPORT

BACKGROUND

1. In May 2021 the Government announced that Fylde Council had been successful with a £6.290m bid to the Future High Street Fund to regenerate Kirkham Town Centre. This award sat alongside the £3.271m Heritage Action Zone funding to form the Kirkham Futures Programme.
2. One of the projects identified within the Future High Street Fund award is the acquisition and conversion of the former TSB building at 52 – 64 Poulton Street. Council gave approval to acquire the property in December 2021, and since acquiring the building the Council have been developing proposals for a conversion of the building into a bar and restaurant establishment.
3. Fylde Council have appointed a multi-disciplinary consultant team led by DCMG Associates to lead on building design work and to administer the building contract upon award.
4. The scope of the refurbishment work includes:
 - Within the original Listed Building, refurbishment and remodelling of existing double height space with feature roof beams and supporting wall posts to create new entrance, dining, bar, cellar and storage facilities, then refurbishment of the second-floor accommodation to house staff welfare and storage facilities. Externally there will be works to refurbish railings, repair/replace cast iron rainwater goods, repairs to York stone pavers to frontage section, and repairs to the rendered plinth construction.
 - Demolition of 1970's rear extension and construction of new replacement extension with contemporary details and features to house further dining space, new WC's, and kitchen facilities.
 - External works to provide rear patio terrace, landscaped garden area and pathways linking to service areas including a fenced Service Yard and Refuse Store.
5. Planning permission and listed building consent for the works was granted on 1st March 2023 (ref 22/0949 & 22/0450 respectively).

PROCUREMENT PROCESS & EVALUATION

6. Officers have led the tender process with support from DCMG Associates via a traditional procurement route, where the Client fully details the design ahead of the tender period.
7. The tender process was undertaken via a restricted procedure. The opportunity was advertised on 12th October 2023 via the 'Chest Procurement Portal' with interested contractors required to populate a Standard Questionnaire response by the deadline of 2nd November 2023.
8. 19 Standard Questionnaire submissions were received. The Standard Questionnaire responses were evaluated and a shortlist of 6 contractors were selected to take through to the Invitation to Tender stage. The selected shortlist was as follows:
 - Rosslee Construction Ltd.
 - Warden Construction Ltd.
 - Bambers Remedial Contractors.
 - Krol Corlett Construction.
 - Colin Briscoe Construction.
 - Cunard Construction.
9. The Invitation to Tender documents were issued to the shortlist on 1st December 2023, with a submission deadline of 19th January 2024.

10. The tender submissions will be evaluated by the project team and will meet on the 25th January 2024 to finalise the tender evaluation report. Scoring information will then be circulated via an updated report provided to the Executive Committee ahead of its meeting on 30th January 2024.

Table 1: Tender Evaluation: Prices

TO FOLLOW

Table 2: Summary of Tender Quality scores

TO FOLLOW

Table 3: Overall Tender Evaluation Scores

TO FOLLOW

COST BREAKDOWN OF THE SCHEME

11. A pre-tender estimate was prepared by the Quantity Surveyor working for DCMG Associates. This estimated the construction works at £438,063, which can be broken down into 3 main elements:

- Construction works - £378,353.
- Preliminaries - £37,835.
- Contingency - £21,875.

12. A copy of the full pre-tender estimate document is available on request.

METHOD AND COST OF FINANCING THE SCHEME

13. Funding for a scheme for this purpose is included within the approved Capital Programme for 2023/2024 and 2024/2025, subject to the approval of the recommendations contained within this report. The project is fully funded by the Future High Street Fund grant.

VALUE FOR MONEY AND DETAILS OF PROCUREMENT PATH

14. To ensure that value for money is achieved a procurement exercise has been undertaken in accordance with the Council’s contract procedure rules. Selection of the successful bid has been based on value for money using a cost / quality assessment as outlined in Table 3 included in this report.

ONGOING REVENUE IMPLICATIONS OF THE SCHEME

15. The Council have already allocated a revenue budget for the management and maintenance of the former TSB building. Most costs associated with the building will be the responsibility of the leaseholder once in situ.

PROCUREMENT SUMMARY

16. The Council is requested to approve expenditure for the conversion of the former TSB building to be delivered under the Kirkham Futures Programme. The winning tender sum is £(TBC). The Council is also requested to approve the letting of the contract to (insert contractor name), following a compliant tender process detailed above.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	✓

IMPLICATIONS	
Finance	The report requests approval for expenditure of £(TBC) (£TBC in 2023/24) and £TBC in 2024/25) in respect of the conversion of the former TSB project as outlined in this report. The report also requests approval to the letting of the contract for works.
Legal	No implications arising from this report
Community Safety	No implications arising from this report
Human Rights and Equalities	No implications arising from this report
Sustainability and Environmental Impact	No implications arising from this report
Health & Safety and Risk Management	No implications arising from this report.

SUMMARY OF PREVIOUS DECISIONS
<p>Planning Committee - 1 December 2021 - approved at Council on 6 December 2021</p> <p>3. The Chief Executive recommends that the Council approves the acquisition of the freehold interest of the property known as the former girls school/TSB bank 52 - 64, Poulton Street, Kirkham for a purchase price set out in the report and authorise officers to seek a potential restaurant / community tenant to take on a 7-year lease (insurance, utilities, internal repairs etc. including fit out will be met by the tenant), all costs being met from the Future High Street Fund grant award.</p> <p>Council – approved on 5th July 2021</p> <ol style="list-style-type: none"> 1. The award of the Grant from the Ministry of Housing, Communities and Local Government (MHCLG), under the Future High Street Fund, of £6.290m in respect of the full funding award for the financial years 2021 – 2024. 2. A fully funded capital budget increase of £6.290m to the Future High Street Fund: Kirkham allocated over the financial years as follows: (2021/22 - £3.489m), (2022/23 - £2.118m) and (2023/24 - £0.683m)

BACKGROUND PAPERS REVELANT TO THIS ITEM		
Name of document	Date	Where available for inspection
N/A		

LEAD AUTHOR	CONTACT DETAILS	DATE
Charlie Richards	charlie.richards@fylde.gov.uk	15 January 2024

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF GOVERNANCE	EXECUTIVE COMMITTEE	30 JANUARY 2024	9
LYTHAM INSTITUTE			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

RELEVANT LEAD MEMBER

This item is within the remit of the Lead Member for Corporate and Economic Development, Councillor Karen Buckley, and the Lead Member for Tourism, Leisure and Culture, Councillor Jayne Nixon.

PURPOSE OF THIS REPORT

The report concerns the Charity Commission's decision on the objectives and governance of the Lytham Institute charity, of which the council is the sole trustee. After receiving 107 representations to its consultation, the Commission has made a scheme which replaces the previous outdated objectives. The report sets out the new objective and summarises the decision notice and accompanying advice note. With the new objective now in effect, the report invites the committee to institute consultation about the charity's future structure and governance.

RECOVERABILITY

This decision is recoverable under section 5 of part 3 of the constitution.

RECOMMENDATIONS

The committee identifies ways in which it wishes to seek the views of users of the Institute, beneficiaries and other relevant stakeholders about the future of the Institute, and how the structure and governance of the charity should evolve following the publication of the Commission's decision.

REPORT

CHARITY COMMISSION CONSULTATION AND DECISION

1. The council is the sole trustee of Lytham Institute, which is a registered charity. During the spring of 2022, the Charity Commission undertook formal consultation on a draft scheme to change the objectives of the charity. The existing objectives were based on now-repealed legislation from the late 19th and early 20th centuries and related to purposes that are now provided adequately by other means.

2. The Commission received 107 representations in response to its consultation. It is likely¹ that many of the representations argued that the replacement objective should include the preservation of the Institute building for its own sake.
3. The Commission issued its decision on 13 December last year. The decision notice and the formal scheme are appended to this report, along with an advice note that was issued by the Commission with the decision notice.
4. The scheme now forms the governing document of the charity, replacing the previous governing document, which was an indenture dated 29 September 1917. The charitable objectives set out in that indenture are replaced by the charitable objective set out in clause 4(1) of the scheme, which is:

To further or benefit the residents of Lytham and the neighbourhood, without distinction of sex, sexual orientation, race or of political, religious, or other opinions by providing facilities in the interests of social welfare for education, recreation, and leisure time occupation, including cultural and art exhibitions, with the objective of improving the conditions of life for the residents.

5. The decision notice and the advice note are summarised below for quick reference. However, members will want to familiarise themselves with the full text of the documents.

SUMMARY OF THE DECISION NOTICE

6. The document is a review by the Charity Commission of whether to make a scheme to alter the purposes and governance of the Lytham Institute, a registered charity. The scheme would change the charity's purposes from operating a library, museum, or gymnasium to operating a community centre. As the objective is to benefit the residents of Lytham and its neighbourhood, any facility provided by the charity would need to be in that area but would not need to be provided from the existing Institute building.
7. The review concludes that the 1917 charitable purposes have been adequately provided by other means, meeting the legal test for changing the charity's purposes. The proposed new purposes of operating a community centre are suitably close to the original purposes and meet current needs. However, concerns were raised about a local authority being sole trustee, so the scheme requires independent trustees, or an independent committee, to make certain key decisions.
8. The review carefully considered whether preserving the Institute building was part of the charity's original spirit and purposes. It concludes this was not the case - the focus was on providing facilities for recreation and education rather than preserving a particular building. However, additional safeguards have been added requiring independent involvement in any decision to sell the building.
9. Over 100 representations about the draft scheme were considered as part of the review. Most raised concerns about the potential sale of the building, the suitability of the consultation process, and the council acting as sole trustee. The review concludes the scheme can proceed with amendments to address the most serious concerns through requiring independent involvement in key decisions.

SUMMARY OF THE ADVICE NOTE

10. The letter advises the trustee to follow the Commission's guidance on managing conflicts of interest given concerns raised about a local authority acting as sole trustee. It suggests ways independent perspectives could be included such as new trustees, committees or advisory groups. It also advises taking legal advice on governance options.
11. The letter highlights the need for separate finances, policies and decision making solely focused on the charity's interests. It encourages further consultation with beneficiaries when making decisions about using the building and ensuring the charity's financial security.
12. The authorised scheme is now legally in effect as the governing document. The trustee is expected to follow the advice in the letter to comply with legal duties, act in the best interests of the charity and address concerns raised during the consultation. Further guidance is provided on amending the scheme, decision making principles and managing conflicts of interest.

¹ Representations made to the Commission in response to its consultation were not shared with the council. However, it is clear both from the Commission's decision letter and from the council's own informal consultation prior to the initial request for the Commission to consider making a scheme that many members of the community were and remain concerned with the preservation of the building for its own sake.

NEXT STEPS

13. Members are reminded that the council must manage the charity for the purposes of the charity's objectives and in accordance with the detailed framework of charity law. The council's corporate priorities, together with any political priorities, must not be considered. Nor can public pressure, including public pressure to take decisions that prioritise the retention of the Institute building over the charitable objectives.
14. Now that the new charitable objectives are in place, it would be appropriate for there to be consultation with all relevant stakeholders about the future structure of the charity. This could cover such matters as whether additional trustees should be appointed alongside, or even instead of², the council, how any such trustees should be selected, and the governance and administrative structures that would be needed to support the charity³. Any new trustees would have the same responsibilities as a trustee as does the council.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	✓

IMPLICATIONS	
Finance	There are no financial implications arising directly from this report.
Legal	The return and reports are required to be submitted each year by every charity, unless exempt.
Community Safety	None
Human Rights and Equalities	None.
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	None.

SUMMARY OF PREVIOUS DECISIONS
Finance & Democracy Committee 22 July 2019 Finance & Democracy Committee 17 Feb 2020 Council 9 Mar 2020 Finance & Democracy Committee 25 Jan 2021 Finance & Democracy Committee 7 Oct 2021 Finance & Democracy Committee 24 Jan 2022 Finance & Democracy Committee 30 Jan 2023

BACKGROUND PAPERS RELEVANT TO THIS ITEM		
Name of document	Date	Where available for inspection

² The Charity Commission has confirmed in correspondence that there is no requirement for the council to remain as trustee if other trustees are appointed and the council does not wish to continue.

³ Such changes to the governing document can be made by the trustees under powers in the Charities Act 2011.

Charity Commission decision notice	5 December 2023	Appended to this report
Charity Commission scheme	5 December 2023	Appended to this report
Charity Commission advice note	5 December 2023	Appended to this report

LEAD AUTHOR	CONTACT DETAILS	DATE
Ian Curtis	Email & Tel 01253 658506	2 January 2024

Attached documents.

Appendix 1 - Charity Commission decision

notice Appendix 2 - Charity Commission scheme

Appendix 3 - Charity Commission advice note.



**CHARITY COMMISSION
FOR ENGLAND AND WALES**

1. Introduction

The Lytham Institute (“the Charity”)

Registered charity 1186995

REVIEW OF THE DECISION TO MAKE A SCHEME TO ALTER OR AFFECT THE GOVERNANCE OF THE CHARITY INCLUDING A CHANGE OF PURPOSES.

Decision Review date 5 December 2023.

- 1.1 This is a review of the proposed cy pres Scheme for the registered charity, The Lytham Institute (“the Charity”).
- 1.2 I have conducted the review on behalf of the Commission in accordance with the Charity Commission’s Decision Review Procedure which is set out in the publication [Dissatisfied with one of the Charity Commission's decisions: how can we help you?](#), available on the Charity Commission’s website. I am Kate McGiveron, Senior Case Manager at the Commission. I have not previously been involved in the conduct of the case. This decision represents the final decision of the Commission.
- 1.3 The issue for the review is to whether or not the Commission should proceed to make the draft Scheme.
- 1.4 As well as the legal framework under the Charities Act 2011, in making the Commission’s decision, the public sector Equality Duty, the Human Rights Act 1998 and the Economic Growth Duty have been considered as part of the Commission’s duties as a public authority.
- 1.5 The following has been considered as part of the decision review:
 - the representations made in response to the draft Scheme;
 - the draft cy pres Scheme;
 - other relevant documents from the Commission’s case files including all of the information supplied to the Commission by the trustee and others during the course of the case;
 - the Charity’s governing document (indenture dated 29 September 1917);
 - the Commission’s power to make a cy pres scheme under sections 62, 67 and 69 of the Charities Act 2011;

- the Commission’s Operational Guidance setting out the relevant policy positions, in particular OG 2 Application of Property Cy pres and OG 500 – Schemes;
- the Commission’s external guidance [Changing your charity’s governing document \(CC36\)](#);
- the Commission’s statutory objectives, functions and duties (as outlined in [sections 14 to 16 of the Charities Act 2011](#)); and
- further information and clarification provided during the decision review by both the Charity and those making representations.

2. **Factual background**

- 2.1 The Charity’s governing document is an Indenture dated 29 September 1917 (‘the governing document’). The Charity was registered with the Commission on 17 December 2019 under charity number 1186995. The Charity’s purposes, as set out in its governing document, are “*to maintain the said premises and the buildings now or hereafter erected thereon for public use under the provisions of the Public Libraries Acts 1892 – 1901 and the Museums and Gymnasiums Act 1981 or any Acts re-enacting or amending the said Acts of any of them*”. The public use permitted by these Acts includes a public library, museum, gymnasium, or similar facility.
- 2.2 The governing document requires the land and buildings (in this document referred to as the ‘Institute Building’) to be used for the Charity’s purposes. The land is therefore designated land also known as functional permanent endowment.
- 2.3 The Charity’s sole trustee is Fylde Council (‘FC’ / ‘the Trustee’). FC was appointed as the trustee in the governing document.
- 2.4 The Charity’s income for the financial year ending 31 March 2022 was £41,027.
- 2.5 The Commission understands that the Institute Building was originally opened as a non-charitable Institute in 1878. It had a library, reading room, billiards room and club room. In 1898 an extension to the building was opened. The Institute Building was given on charitable trust to the Trustee in 1917.
- 2.6 A library was run in the Institute Building for over 100 years, with the library being most recently operated by Lancashire County Council. In 2016, the library service ceased operating from the Institute Building. In 2018, Lancashire County Council moved the library service to another property in Lytham. It was noted by Lancashire County Council that “*the library accommodation [in the Institute Building] was not considered to be a suitable space for the delivery of a modern*

library service, with a particular challenge being the number of individual rooms requiring supervision by staff.”

- 2.7 FC had sought a Counsel's Opinion in 2012 as to whether the Institute Building was held subject to a charitable trust or by FC under its statutory duties as a local authority. Based on this advice, FC understood that the Institute Building was not held on a charitable trust and did not require registration with the Commission.
- 2.8 In February 2019, Counsel (instructed by Lytham St Anne's Civic Society ('the Civic Society')) advised that the governing document meant that the Institute Building was held on trust for exclusively charitable purposes for the benefit of the public. Counsel concluded that FC ought to register the charitable trust with the Commission.
- 2.9 The Civic Society raised this matter with FC and FC then sought further legal advice. This further advice agreed that the Institute Building was held on charitable trust. On 8 August 2019, FC, acting as charity trustee, applied to the Commission to register the Charity.
- 2.10 During the registration process, the Commission identified that a change of charitable purpose would be required, to be achieved by a cy pres scheme. This is because the Charity is no longer providing a library and is instead being used by the Civic Society and a local heritage group along with space being hired out on a sessional basis for private use. These uses are not consistent with the Charity's purposes as set out in the governing document. In December 2019, the Charity was registered as a charity with the purposes set out in the governing document.
- 2.11 In November 2021, FC applied to the Commission for a cy pres Scheme to change the Charity's purpose. Before applying for the Scheme, FC had undertaken a public consultation exercise which it had begun in Spring 2020. Unfortunately, the consultation period was extended by the covid pandemic and FC's resources were largely directed towards dealing with the effects of the pandemic, including lockdowns. This understandably delayed the application for the Scheme.
- 2.12 On 17 March 2022, the Commission wrote to FC providing a draft Scheme. The Commission informed FC that a month's public notice of the draft Scheme was required in accordance with section 88 of the Charities Act 2011.
- 2.13 The public notice period was between 11 April and 11 May 2022. The Commission received 107 representations about the draft Scheme.

2.14 During the period of this decision review, a scheme involving similar issues was subject to a challenge at the First Tier Tribunal¹. The Commission's view was that although Tribunal decisions are not precedent setting, it was important to understand whether any findings in this Tribunal case would be relevant to the consideration of the scheme for the Charity. The Tribunal hearing was over three days in February 2023 and the Tribunal's decision was issued on 21 September 2023. Unfortunately, this led to a delay in concluding the decision review.

3. Cy pres occasion

3.1 A cy pres scheme is a scheme that the Commission or the court can make to alter a charity's purpose. 'Cy près' means 'as near as possible' and a cy pres scheme is a legal arrangement that allows charitable property to be applied for purposes which are close to the original purposes.

3.2 To make a cy pres scheme to alter a charity's purpose, the Commission must be satisfied that at least one of the criteria set out in section 62 of the Charities Act 2011 have been met. These criteria are known as 'cy près occasions'. Section 61 of the Charities Act 2011 also places trustees of charitable trusts under a duty to apply for a cy pres Scheme if a cy pres occasion has arisen.

3.3 FC has made the case that section 62(1)(e)(i) of the Charities Act 2011 applies: "*where the original purposes, in whole or in part, have, since they were laid down been adequately provided for by other means.*" The Commission agrees.

3.4 FC has explained to the Commission that, in the past, the Institute Building was used as a library but this is no longer possible. The function of providing a public library is now carried out, in another property, by Lancashire County Council (the statutory library authority for the area in which the Institute Building is situated).

3.5 The Charity's purposes set out in the governing document do not solely relate to the provision of a library – the Institute Building could also be used for the provision of a "*museum, gymnasium or other facility.*" FC has explained that there is also not "*any need for or prospect of the Institute building being used for a 'school for science' or 'school for art'. There are no colleges or universities in the local geographic area who might be able to operate in the building and nothing in the extensive public debate about the future of the building has suggested that there is a potential for that kind of use. As to 'gymnasiums', YMCA (which is a registered charity) operate two fully equipped indoor sports facilities, including gyms, in the town, one of which is within a mile of the building. There is also plenty of private provision of fitness centres in the area..*"

¹ Tony Miller and Will French v Charity Commission for England & Wales (CA/2021/0009)

- 3.6 No information has been provided by FC specifically about the possibility of the building being utilised as a museum. It seems likely financial constraints would be an issue, but this has not been explained to the Commission. The comments in the public consultation did not indicate that the wider community considers that there is a current need for a museum. One representation out of the 107 representations mentioned ‘museum’ as a possible use for the Institute Building and suggested that the locality lacked such a facility. This response’s overall key point, however, was that the Institute Building should be retained for the community rather than any particular use.
- 3.7 The representations did not dispute that a cy pres occasion had occurred.
- 3.8 Failure is not required for s.62(1)(e)(i) - just that the purposes had ‘adequately’ been provided for by other means. On the basis of the information that has been provided, the Commission’s made a reasonable decision² when it concluded that a cy pres occasion had arisen under s.62(1)(e)(i) in that the original purposes, in whole or in part, since they were laid down have been adequately provided for by other means.

4. The application of property cy pres

- 4.1 If at least one cy pres occasion exists, the Commission can make a cy pres scheme to provide new purposes which are close to the original purposes. When deciding on the new purposes, the Commission must have regard to the matters set out in [subsection 67\(3\) of the 2011 Act](#). These are:
- the spirit of the original gift;
 - the desirability of providing new purposes that are close to the original; and
 - the necessity for the new purposes to be suitable and effective in light of current social and economic circumstances.
- 4.2 The Trustee’s proposed new purposes were based on the Commission’s example objects for a charitable community centre. FC explained to the Commission the rationale for proposing these purposes: “*The present, original, objects refer to statutes whose focus was the public provision of libraries, gymnasiums and museums. In the context of the late nineteenth and early twentieth century (the period during which those statutes were enacted and the present objects were set out) the provision of libraries, museums and gymnasiums could be regarded as benefitting the public through providing educational facilities (libraries, museums), facilities for physical exercise*”

² As recorded in the Case Manager’s decision note date 17 May 2022.

(gymnasiums) and facilities for social intercourse (reading rooms, which were provided alongside libraries, and particularly at the Institute)...

- 4.3 The purposes proposed by the Trustee were amended³ slightly by the Commission to more closely reflect standard wording used by the Commission in cy pres schemes. The Commission suggested:

“To further or benefit the residents of Lytham and the neighbourhood, without distinction of sex, sexual orientation, race or of political, religious, or other opinions by providing facilities in the interests of social welfare for education, recreation, and leisure time occupation, including cultural and art exhibitions, with the objective of improving the conditions of life for the residents.

In furtherance of these objects but not otherwise, the trustees shall have power to maintain or manage or co-operate with any statutory authority in the maintenance and management of the Lytham Institute building or other appropriate premises for activities promoted by the charity in furtherance of the above objects.”

- 4.4 The Commission’s draft cy pres Scheme also included the following clause:

“Subject to the provisions of clause 4 (Power to dispose of and replace purpose property), the land identified in part 1 of the schedule to this scheme must be retained by the trustee for use for the objects of the charity.”

The purpose of this clause is to make clear that the Institute Building is designated land⁴.

- 4.5 The draft cy pres Scheme also included provisions setting out the Trustee’s powers in relation to the disposal of the Institute Building:

“4. Power to dispose of and replace purpose property

- (1) This clause is subject to the requirements of part 7 of the Charities Act 2011.*
- (2) The trustee may dispose of all or any part of the land identified in part 1 of the schedule to this scheme.*
- (3) The trustees must replace the land disposed of with equivalent land to be used for the object of the charity.”*

- 4.6 This clause is a standard clause for designated land. It provides the Trustee with a power to dispose and replace the functional permanent endowment with equivalent land which must also be used for the Charity’s purposes. This is

³ The word ‘learning’ was replaced by ‘education.’

⁴ Also known as functional permanent endowment. This is land which is legally required to be used for the purposes of the charity.

consistent with the statutory power in section 6 of [the Trusts of Land and Appointment of Trustees Act 1996](#) and the implied power as considered in the case of *Oldham Borough Council v Attorney General* [1992].

Spirit of the Original Gift:

4.7 The ‘spirit of the gift’ means the basic intention underlying the original gift as a whole: *Re Lepton’s Charity* [1972] Ch 276. The intention may be clear from the terms of the governing document of the charity: if not, records available at the time the charity was established, or even the way in which the charity has been administered and managed over the years, may be relevant.

4.8 The Commission’s decision note dated 17 May 2022 recorded that: “*The spirit of the gift does seem to be about providing a facility for public use and benefit with a focus on education and recreation.*”

This was based on the wording of the governing document and information about the history of the Institute Building.

4.9 The view expressed in Counsel’s opinion from March 2022 (for the Civic Society) was that maintaining the Institute Building, which was described as a ‘handsome building’, is part of the spirit of the gift. Counsel advised:

“I would refer to the case of Oldham Borough Council v HM Attorney General (1992) CA, in which a distinction was drawn between a charity to provide recreational facilities for the inhabitants of an area and a charity which was established to maintain a particular piece of land for use for such purposes. The distinction is a fine one in this case, but it seems to me that the second interpretation is correct, and that there is at present no justification for relaxing the requirement to maintain the premises so as to justify their disposal.”

4.10 Many of the representations received were of the view that the Institute Building is a building worthy of preservation in and of itself due to its historic and aesthetic value and was part of the spirit of the gift.

4.11 Whether or not the land is in the category of designated land known as specie⁵ land is an important factor when determining the spirit of the gift and we agree with Counsel that it can be a fine distinction. Therefore, as part of the decision review, the Civic Society was asked if it would like to provide further explanation to support Counsel’s view that the maintenance of the Institute Building is part of the Charity’s original purpose, including which parts of the governing document supported this interpretation.

⁵ Specie land is a special kind of designated land and it is where only the specific piece of land in question can be used and it cannot be replaced. Examples of this are a trust to retain for the public benefit a particular house once owned by a particular historical figure or a particular area of land of outstanding natural beauty.

- 4.12 In response, the Civic Society obtained a note from Counsel dated 29 September 2022 which was helpful to the Commission's consideration of cy pres. Counsel considered the Oldham Borough Council case but distinguished it from the Institute Building noting "*Whereas in the Oldham case the land in question had no special features other, presumably, than being suitable for use as local playing fields, in the present case there was a long history which is summarised in the extract entitled 'The Charitable Misses Hewitt' from 'Victorian Lytham'... It is not hard to see that by 1917, by which time the original building had been extended, there was a good reason to impose a specific obligation on the Council to maintain the rather special building to which so many people had contributed and which was well used by the community.*"
- 4.13 The wording in the governing document has been considered by the Commission. In the Oldham Borough Council case, the gift to the Council was on the following terms: "*The donees hereby declare that they will hold the said land upon trust to preserve and manage the same at all times hereafter as playing fields to be known as 'the Clayton Playing Fields' for the benefit and enjoyment of the inhabitants of Oldham, Chadderton and Royton aforesaid.*" In this case it was held that the recreational ground could be sold and replaced with equivalent land.
- 4.14 This is similar language to that used in the Charity's governing document which states that the land is held "*upon trust to maintain the said premises and the buildings now or hereafter erected for public use...*"
- 4.15 The Commission has found the following passage from the Oldham Borough Council case to be helpful: "*There are of course some cases where the qualities of the property which is the subject matter of the gift are themselves the factors which make the purposes of the gift charitable - e.g. where there is a trust to retain for the public benefit a particular house once owned by a particular historical figure or a particular building for its architectural merit or a particular area of land of outstanding natural beauty. ...But that is far away from cases such as the present, where the charitable purposes - playing fields for the benefit and enjoyment of the inhabitants of the districts of the original donees, or it might equally be a museum, school or clinic in a particular town - can be carried out on other land.*"
- 4.16 The Commission has also noted the First Tier Tribunal's decision given on 21 September 2023. The Victoria Hall Trust is a charity which, similar to the Lytham Institute, operates a community building and has a local authority as its sole trustee. The Tribunal considered an appeal against the Commission's decision to make a scheme for the administration of the charity on the basis that a cy-pres occasion had arisen. As part of the appeal, the appellants submitted to the Tribunal that the preservation of the existing property of the charity was part of

the ‘*spirit*’ of the gift. The Tribunal accepted the Commission’s submissions that it was not one of the charity’s purposes to preserve the Victoria Hall. It found “*that ‘preservation’ was neither mentioned in the Charity’s governing document, nor part of the spirit of the gift. The underlying charitable purpose was not to provide income for ‘preserving’ charity property but to apply income from the charity property for the beneficiaries of the charity.*” This supports the Commission’s approach to the spirit of gift for the Institute Building which also does not mention preservation in its governing document.

4.17 The Commission considers that the wording from the governing document “*the buildings now or hereafter erected*” means that the current Institute Building was not intended to be part of the purposes because the governing document expressly allows other buildings to be built on the land. Counsel’s opinion does not address this specific wording.

4.18 We have read the extract from ‘*The Charitable Misses Hewitt (from ‘Victorian Lytham)*’ kindly provided by the Civic Society. We agree with Counsel that there is a long history to the Institute Building and many people contributed to it being built and extended. In our view, these factors support that the spirit of the gift was about the activities that happened within the building rather than the Institute Building itself. The extract reports that the trustees decided to economise on the architects’ fees both for the original building and the extension. Reports at the time noted that it was built of brick, “*mainly the dull red commonly used in Lytham*”. It is now considered a ‘handsome building’ and is Grade 2 listed but, at the time it was built, it was not considered to be ‘special’. What was important about the Institute Building is that it allowed the required recreational activities to take place. This same extract reports that:

“social intercourse, recreation and mutual improvement...the poor old Institute in Bath Street failed to fulfil its object. It is true that there was room for recreation and social intercourse, but there was not a proper place for mutual improvement, and there was not an opportunity to for the men to attend classes or lectures.”

The Institute Building was built to enable these activities to take place and it was the activities that were important. These activities could be undertaken in other equivalent buildings and this is recognised with the specific wording of the governing document.

4.19 One representation provided the view that: “*It is noteworthy that the 1917 Deed [the governing document] which established the charity does not give the Council [FC] a power of sale. This is clearly because the charitable objects could only be performed from the purpose-designed Institute.*” It is in the Commission’s experience not unusual for governing documents for charities with designated land not to include a power of sale. As explained, following the reasoning in the

Oldham Borough Council case, this does not mean that preserving the Institute Building is part of the spirit of the gift.

4.20 The Commission cannot definitively interpret governing documents, but we need to reach a view when exercising our powers. It is our view that it has not been demonstrated to the Commission that the Institute Building is specie land and that maintaining this property is part of the spirit of the original gift. The spirit of the original gift seems to be about a gift for the public connected with recreation and education.

The desirability of securing that the property is applied for charitable purposes which are close to the original purposes:

4.21 The First Tier Tribunal gave guidance on this test in its decision for Dunsfold Church of England School Trust⁶. This suggested that *“all things being equal, one should start with the closest purpose and then expand the permitted uses outwards, although this is clearly not an express statutory requirement.”*

4.22 The Commission’s decision note in the original scheme case noted:

- *“Given the above spirit of the gift, then model community centre objects (as amended) are close to the original – they focus on providing educational and recreational facilities for the public benefit in the interests of social welfare and improve conditions of life. Explicit reference to cultural and art exhibitions has been included as they original purpose did allow for museum and art galleries etc and the charity does have capacity to further this purpose through the art collection held by the trustee.”*
- *“The trustee has explained that there is a need for a community centre type facility and so this would meet that need.”*

4.23 None of the representations suggested that a community centre would not be close to the original purposes. Several representations indicated opposition to the idea of the building being utilised for shops or restaurants.

Comments in the representations included:

- *“The Institute should remain as it has always been, a community asset serving the local people by providing space for all manner of activities.”*
- *“I think the building should be preserved for posterity for the residents of Lytham and put to use as a community service such as crafts , book clubs exercise groups and so forth.”*

4.24 It is therefore reasonable to conclude that charitable community centre purposes are close to the original purposes.

⁶ http://charity.decisions.tribunals.gov.uk/documents/decisions/Ground_final_6Dec2011_no_sig.pdf

The need for the relevant charity to have purposes which are suitable and effective in the light of current social and economic circumstances:

- 4.25 The Commission's policy⁷ is that *"the purpose of making a cy-près Scheme is to enable a charity to continue being effective, useful and relevant to its beneficiaries' needs in modern society, where without our intervention it would not be."*
- 4.26 The Trustee has advised us that there is a need for a community centre type facility in the area. The report compiled by the Trustee following its public consultation demonstrates support for a community centre type facility amongst the local community as do the representations.
- 4.27 Many representations were supportive of the Institute Building being used as a charitable community centre. Some of the representations suggested uses for the building, for example as a location for sports, music or arts/crafts activities, that would be allowed under the draft purposes and could be undertaken at a community centre.
- 4.28 However, concerns were raised about whether the Trustee has the necessary vision and commitment to ensure that a community centre would be financially viable and that the Institute Building would be satisfactorily maintained. Therefore, as part of the decision review, the Commission asked the Trustee for more details about its plans for the Charity including to ensure that the proposed community centre would be economically viable. The Commission takes the view that practical as well as legal considerations inform its cy pres decision making and it is not appropriate to provide new purposes if these cannot be achieved for practical reasons.
- 4.29 The Trustee has advised that it has not carried out any form of business planning but does intend to carry out further consultation with community groups and other interested parties to discuss how to use the Institute Building for the new purpose. We understand that currently there are a number of groups that use the building on a weekly or ad-hoc basis. The Trustee also indicated that, potentially, part of the building could be used in the future to exhibit artwork, which is owned by the Council in its statutory capacity and is not currently on public display.
- 4.30 Both the representations and the Trustee's public consultation indicate local support for the proposed use of the building as a community centre and that such a facility would be welcomed. If the cy pres Scheme was not made, it is unclear

⁷ As set out in [OG2 Application of Property Cy pres](#) Section 3.2

what an alternative way forward for the Charity could be. The cy pres Scheme would appear to be the best prospect for securing the Charity's future.

5. Consideration of the representations

- 5.1 As part of the Decision Review process, all of the 107 representations received (including those submitted outside of the notice period) were read and taken into account. The Commission is grateful to those who have taken the time to contribute as these representations have informed our decision making. To further inform the review, additional information was requested from the Trustee and some of those who submitted representations.
- 5.2 Whilst the majority of representations received raised concerns about the draft Scheme, we did receive a number of representations that were positive about potential benefits the cy pres Scheme could bring, particularly in relation to it allowing for the operation of a community centre.
- 5.3 A majority of the representations (over 70) raised a similar concern about the potential sale of the current Institute Building. This concern has three components: (i) that the current Institute Building is, of itself, important and that the preservation of the building is part of the spirit of the original gift (ii) that the location of the current Institute Building is ideal and other locations would not be as suitable (iii) that the Institute Building might be sold by the Trustee and not replaced with another property.
- 5.4 As noted in section 4 above, whether the preservation of the Institute Building was part of the spirit of the original gift has been carefully considered.
- 5.5 The concerns about the potential sale of the Institute Building appear to have been heightened due to the draft Scheme including the standard wording: *“the trustee shall have power to maintain or manage or co-operate with any statutory authority in the maintenance and management of the Lytham Institute building or other appropriate premises.”* This clause or the phrase *“other appropriate premises”* was cited by half of the representations.
- 5.6 This drafting is included to reflect the legal position that there is no legal bar to a charity co-operating with a statutory authority when furthering its charitable purpose. It is not a charitable purpose but a discretionary power which can be exercised by the Trustee to further the purposes. The Charity would have this power and the power to sell land to purchase a replacement whether or not this wording is included in the Scheme.
- 5.7 To provide a new purpose in the Scheme that was more restrictive and required the Institute Building never to be sold would not be consistent with the spirit of the gift or the purpose of cy pres.

- 5.8 Whether the power to sell and replace the land is ever used is a decision for the Trustee, not the Commission. We could only intervene if the Trustee failed to comply with its legal duties when making such a decision. The Trustee has not given any indication to the Commission that it intends to sell the current Charity property or discontinue the operation of the Charity.
- 5.9 The Trustee does not have the power to sell if it does not intend to replace the land. This would currently require a further cy pres scheme.
- 5.10 One of the main concerns raised in the representations was the Charity having a sole Trustee. There are advantages to a charity having a local authority as sole trustee. One of the disadvantages, however, is that a serious conflict of interest can arise for specific decisions when the local authority is acting as a charity trustee and the local authority is also acting in its statutory capacity. Some of the representations suggested that additional trustees, representing various interested parties from the community, should be appointed. Although this is outside the consideration of cy pres, the Commission notes that this was a consistent theme in the representations. FC was appointed as a trustee when the Charity was established, and this authorises FC to act in the general management and administration of the Charity. All decisions made by the Trustee must be in the best interests of the charity.
- 5.11 Having taken into account the concerns raised about FC's dual role as sole trustee and the local authority, we have taken the decision to make additions to the scheme. The Commission considers that, rather than requiring additional trustees to be appointed immediately, it is more proportionate to require that additional trustees who are independent of FC must be appointed before any decision can be taken about (i) disposing of any or all of the Charity's property; (ii) seeking to amend the Charity's purposes; and / or (iii) to cease the operation of the Charity. These decisions are where the potential for a conflict of interest is most acute. However, the scheme does provide FC with another option to manage these decisions. Instead, FC can decide to establish a committee of the executive to exercise the function of trustee of the charity provided that this committee includes a majority of people independent to the FC.
- 5.12 This additional safeguard has been included so that any decision about the sale of the Institute Building, or a change of purpose for the Charity or the closure of the Charity is made solely in the interests of the Charity, which addresses the concerns raised in the representations. As noted above, even with independent people involved in the decision making, the Charity does not have the power to sell the Institute Building and not replace it. This would require the further consent of the Commission. Also, as noted above, it is understood that there are no plans to sell the Institute Building or close the Charity.
- 5.13 Outside the sale of the property, change of purpose or closure of the Charity, it will be for the Trustee to consider whether it would be in the best interests of the

Charity to appoint any additional independent trustees or operate a committee of the executive with the involvement of independent persons. The Trustee has indicated that it would be willing to appoint additional trustees. It should take independent advice to ensure lawfulness under the complex legal framework governing local authorities or whether other models, such as the appointment of a committee to manage any conflicts of interest, would be more appropriate. FC should also take advice about the practical implications of appointing additional trustees or committees to ensure that the governance of the Charity is practical and effective.

5.14 The Commission's policy is that before applying for a scheme, we usually expect the trustees to have carried out a genuine and appropriate consultation exercise to take into account the views of the charity's stakeholders about the proposals. This is not a legal obligation on the trustee, but it is about ensuring that the trustee can take into account all relevant factors in its decision making.

5.15 Some representations raised concerns about the suitability of the consultation process undertaken by the Trustee, in particular whether it was sufficiently publicised. The Trustee has provided the Commission with details of the consultation that was carried out and the responses that were received. The information provided to us indicates the consultation enabled the Trustee to take into account the views of the local community as a relevant factor in its decision making.

6. Conclusion

6.1 It is concluded that the Scheme can be made with some amendments to the published draft which have been explained in this Decision Note.

6.2 The Scheme may be challenged in the First Tier Charity Tribunal, provided certain criteria is met. More information is available in the Commission's guidance [Dissatisfied with one of the Charity Commission's decisions](#) and on the [First tier tribunal's website](#).

Kate McGiveron

Senior Case Manager / Regulatory Services
Charity Commission

THE CHARITY COMMISSION FOR ENGLAND AND WALES

Under the power given in the Charities Act 2011

Orders that from today, the

13 December 2023

this

SCHEME

will govern the charity

known as

THE LYTHAM INSTITUTE (1186995)

at

Lytham St Annes, Lancashire

Nia Jones

**A member of staff of the Charity Commission authorised to act on behalf of the
Charity Commission**

1. Definitions

In this scheme:

“the charity” means the charity identified at the beginning of this scheme

“the Commission” means the Charity Commission for England and Wales

“the Council” means Fylde Council when acting in its capacity as local authority

“designated land” means land held on trusts which stipulate that it must be used for the purposes of the charity

“the former trusts” mean the Indenture dated 8 October 1917

“the Institute Building” means the property described in the schedule to this scheme

“the trustee” means the trustee of the charity acting under this scheme

2. Administration

The charity is to be administered in accordance with this scheme. This scheme replaces the former trusts of the charity.

3. Trustee

Fylde Council is the trustee of the charity.

4. Object of the charity

(1) The object of the charity is:

To further or benefit the residents of Lytham and the neighbourhood, without distinction of sex, sexual orientation, race or of political, religious, or other opinions by providing facilities in the interests of social welfare for education, recreation and leisure time occupation, including cultural and art exhibitions, with the objective of improving the conditions of life for the residents.

In furtherance of this object but not otherwise, the trustee shall have power to maintain or manage, or to co-operate with any statutory authority in the maintenance and management of, the Institute Building or other appropriate premises for activities promoted by the charity in furtherance of the above object.

(2) Subject to the provisions of clause 5 (Power to dispose of and replace designated land), the Institute Building is designated land and must be used for the object of the charity.

5. Power to dispose of and replace designated land

(1) Part 7 of the Charities Act 2011 must be complied with when disposing of designated land.

- (2) Subject to the provisions of clause 6, the trustee has the power to dispose of all or any part of the charity's designated land.
- (3) The designated land disposed of must be replaced with equivalent land to be used for the object of the charity.

6. Independent Trustees

- (1) This clause 6 applies only if the Council is not exercising its function as trustee by delegating to a committee of the executive comprising a majority of members who are independent of the Council.
- (2) Before any decision is to be taken about:
 - (a) exercising a power to dispose of all or any part of the charity's designated land;
 - (b) exercising a power to amend the object of the charity; and/or
 - (c) the charity ceasing to operate
 the trustee:
 - (a) must appoint an additional three trustees who are independent from the Council; and
 - (b) all appointments must be made on the basis that the individual's particular skills and/or knowledge will benefit the charity.
- (3) The trustee and the independent trustees must make rules and regulations consistent with this scheme for the management of the charity which would include making provisions for calling trustee meetings, trustee terms of office and quorum.

7. Conflicts of interests and conflicts of loyalties

- (1) If the trustee is acting as a sole trustee then any conflict between the interests of the charity and the interests of the Council and/or the interests of the individual members of the Council on any committee of the Council or any committee of the Council's executive shall be managed in accordance with a conflicts of interest policy to be adopted by the trustee under this paragraph taking account of guidance issued by the Commission.
- (2) If the trustee is acting jointly with the independent trustees, any trustee must:
 - (a) declare the nature and extent of any interest, direct or indirect, which they have in a proposed transaction or arrangement with the charity or in any transaction or arrangement entered into by the charity which has not been previously declared; and
 - (b) absent themselves from any discussions of the trustees in which it is possible that a conflict will arise between their duty to act solely in the interests of the charity and any personal interest (including but not limited to any personal financial interest).

- (3) Any trustee absenting themselves from any discussions in accordance with sub clause 7(2) must not vote or be counted as part of the quorum in any decision of the trustees on the matter.

8. Use of income and capital

- (1) The trustee must first apply:
 - (a) the charity's income; and
 - (b) if the trustee thinks fit, expendable endowmentin meeting the proper costs of administering the charity and of managing its assets (including the repair and insurance of its buildings).
- (2) After payment of these costs, the trustee must apply the remaining income in furthering the objects of the charity.
- (3) The trustee may also apply expendable endowment for the objects of the charity.

9. Questions relating to the Scheme

The Commission may decide any question put to it concerning:

- (1) the interpretation of this scheme; or
- (2) the propriety or validity of anything done or intended to be done under it.

SCHEDULE

Freehold property known as Lytham Institute at 27 Clifton Street, Lytham St Annes,
Lancashire



CHARITY COMMISSION
FOR ENGLAND AND WALES

Mr Ian Curtis
By email only to:
IAN.CURTIS@FYLDE.GOV.UK

Charity Commission
PO Box 211
Bootle
L20 7YX

Date: 13 December 2023

Dear Mr Curtis

The Lytham Institute (1186995)

The Commission has recently completed its review of the decision to make a scheme to change the purpose of the above charity. A copy of the decision review is attached with this letter.

Please accept my apologies for the length of time that it has taken to complete the review. We received a large number of representations about the draft scheme, and it was important that these were given full consideration. It was also important for the Commission to consider the views of the Charity Tribunal in its decision on another cy pres scheme which had some similar features before we completed the review. Unfortunately, this judgment took longer to be handed down than we had anticipated.

The conclusion of the review is that the Scheme can be made but with certain amendments. As you will see, the Scheme now includes the requirement to appoint three additional trustees who are independent of the Council before key decisions can be made. If additional trustees are appointed, they will act jointly with the Council as charity trustees. These key decisions are:

- (i) to sell the Institute Building;
- (ii) change the purposes of the charity; or
- (iii) to cease to operate as a charity.

These decisions are where there is the potential for a serious conflict of interest and so appointing additional trustees will enable the trustees of the charity to manage the conflict. As explained in the decision review document and below, the role of the local authority as the sole trustee was a concern that was raised in the representations.

On track to meet your deadline?

Visit www.gov.uk/charity-commission for help on filing your annual return and accounts

t: 0300 066 9197 (General enquiries)

w: www.gov.uk/charity-commission

The Scheme is clear that the requirement for additional trustees for the key decisions does not apply if the Council exercises the function of trustee by way of a committee of the executive which includes a majority of people who are independent of the Council. This is because this model of decision making would already enable conflicts of interest to be managed. While we understand that the Council does not have any current plans to make any of these key decisions, the new provisions will help to ensure that conflicts of interest are properly managed if any of these decisions are considered in the future.

I have now authorised the Scheme - please find it attached. The Scheme is now legally effective and is the charity's governing document. A copy should be kept with the charity's records which should be held separately from the Council's records as a local authority. We have updated the charity's file and Register entry (and this will be reflected on the public register from tomorrow).

In the Scheme, we have only included limited powers. The trustee is able to add additional relevant powers using the power in s.280 of the Charities Act 2011. Further information about amending the governing document is set out below. We suggest that the model governing document for trusts available on our website is used as a guide to useful powers which the trustee may wish to include.

https://assets.publishing.service.gov.uk/media/634565d2d3bf7f6184a293b5/GD2_Model_trust_deed_for_a_charitable_trust.docx

Further to the decision review, we are now providing you with formal advice under [section 15.2 of the Charities Act 2011](#). The Council as trustee is expected to follow this advice to ensure that it complies with its legal duties and responsibilities as trustee and act in the best interests of the charity.

Local Authorities as trustees

The Commission recognises that there are benefits to having a local authority as trustee of a charity. However, as highlighted in the recent Victoria Hall decision by the Charity Tribunal, there can be disadvantages too, including managing conflicts of interests. Again, this was also highlighted as a concern in many of the representations we received about the draft scheme.

A local authority acting as trustee must comply with the same legal duties as all other charity trustees. Any local authority acting as a charity trustee therefore needs to:

- avoid conflicts of interest (including between its corporate role and that of trustee);
- safeguard the charity's property; and
- safeguard the beneficiaries' interests.

There is further guidance about Local Authorities acting as trustee at the link below. This guidance highlights the need to keep charity and Council business separate and this includes the finances of both organisations.

[Local authorities as charity trustees - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

The Commission also has guidance on managing conflicts of interest and this should be carefully considered:

[Conflicts of interest: a guide for charity trustees \(CC29\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

Independent people

As part of the scheme making process, we understand that the Council is open to including people who are independent of the Council in its decision making. As noted above, the Scheme requires this if the circumstances in clause 6 of the Scheme apply. Including independent people can not only assist in meeting the legal duty to manage conflicts of interest, but also enables different perspectives and ideas on how to best use the charity's assets to further the new purpose and support beneficiaries.

There are a variety of ways including independent people can be achieved. Individuals can be appointed as additional charity trustees to act jointly with the local authority. The Council can also use a committee of the local authority or a committee of the executive to exercise the function of trustee for the local authority. Alternatively, the Council could appoint an advisory committee to assist in the exercise of its function as trustee. To appoint any of these types of committee would be an internal matter for the Council and would not require any amendment to the scheme.

As noted at point 5.13 of the decision review there are a number of complex issues of law, as well as practical considerations, when additional individual charity trustees are appointed or the Council delegates to a committee. We therefore recommend the trustee takes legal advice including under the Local Government Acts of 1972 and 2000.

If the trustee is considering making changes to the charity's governing document to allow for the appointment of additional trustees to act permanently, further guidance about making changes can be found at the link below:

[Changing your charity's governing document \(CC36\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

Decision making

As the trustee, the Council is responsible for making all decisions for the charity. There are some important legal principles to making good decisions, which we expect the trustee to follow. These principles are detailed in the guidance at the link below.

[It's your decision: charity trustees and decision making \(CC27\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

One of the principles is to ensure that decisions are made solely in the interests of the charity. The Council will therefore need to ensure that the charity has a conflict-of-interest policy in place. It is not sufficient to rely on the model Codes of Conduct for local authorities. This is because these Codes oblige a member of the Council with an interest to withdraw from a meeting of the authority

or the executive if the relevant business were being considered at that meeting but does not oblige a member to withdraw from a meeting of the charitable body. This is why the charity should have its own bespoke policy.

The decision making principles also include the need for any trustee to be properly informed when making decision. For a community use type charity, this would usually include consulting with beneficiaries to properly understand their needs. As noted in paragraph 4.29 of the decision review, you have advised that it is intended that there will be further consultation with community groups and other interested parties to discuss how to use the Institute Building for the new purpose.

We encourage the Council to ensure that this consultation is wide-ranging and takes account of the differing views within the community.

One of the other concerns raised in the representations was the need for the Council as trustee to have a plan to ensure the effective use of the Institute Building and the financial security of the charity. Decisions about these issues should be a priority for the Council following the making of this Scheme. Consulting beneficiaries will assist in formulating such a plan.

I hope this letter is helpful. If you have any questions about its content then please let me know.

Yours sincerely,

Nia Jones