



Agenda

Council

Date:	Monday, 25 April 2022 at 7:00 pm
Venue:	Town Hall, St Annes, FY8 1LW
	<p>Mayor : Councillor Elaine Silverwood Deputy Mayor : Councillor Cheryl Little</p> <p>Leader : Councillor Karen Buckley Deputy Leader : Councillor Roger Small</p> <p>Councillors Ben Aitken, Frank Andrews, Peter Anthony, Tim Armit, Mark Bamforth, Brenda Blackshaw, Paula Brearley, Julie Brickles, Alan Clayton, Delma Collins, Peter Collins, Chris Dixon, Sue Fazackerley MBE, Trevor Fiddler, Ellie Gaunt, Brian Gill, Shirley Green, Noreen Griffiths, Peter Hardy, Will Harris, Gavin Harrison, Paul Hayhurst, Karen Henshaw JP, Paul Hodgson, Angela Jacques, John Kirkham, Matthew Lee, Roger Lloyd, Michelle Morris, Kiran Mulholland, Ed Nash, Sally Nash-Walker, Jayne Nixon, Linda Nulty, Liz Oades, David O'Rourke, Richard Redcliffe, Bobby Rigby, Michael Sayward, Vince Settle, John Singleton JP, Heather Speak, Ray Thomas, Tommy Threlfall, Stan Trudgill, Viv Willder, Michael Withers.</p>

	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	Confirmation of Minutes: To confirm the minutes, as previously circulated, of the meeting held on 3 March 2022 as a correct record.	1
	ANNOUNCEMENTS:	
3	Mayor's Announcements	1
4	Chief Executive's Communications	1
	REPRESENTATIONS:	
5	Questions from Members of the Council	3
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9	Appointments to Outside Bodies 2022/23	12 - 14
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Contact: Sharon Wadsworth - Telephone: (01253) 658546 – Email: democracy@fylde.gov.uk

The code of conduct for members can be found in the council's constitution at
<http://fylde.cmis.uk.com/fylde/DocumentsandInformation/PublicDocumentsandInformation.aspx>

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REPRESENTATIONS

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	25 APRIL 2022	5
QUESTIONS FROM MEMBERS OF THE COUNCIL			

PUBLIC ITEM

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

SUMMARY

No questions have been received from Members of the Council before the requisite deadline, as outlined in Procedural Standing Orders for Council and Committees of Part 4 of the Council's Constitution, and before the statutory deadline for publication of the agenda.

If any further questions are received before the constitutional deadline, as outlined above, they will be circulated prior to the meeting for members' information, under separate cover.

Any questions will be heard during the Council meeting on 25 April 2022 and a response will be given by the Leader of the Council or any other member nominated by her.

REPRESENTATIONS

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	25 APRIL 2022	6
QUESTIONS FROM MEMBERS OF THE PUBLIC			

PUBLIC ITEM

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

SUMMARY

As outlined in Article 15 – Public Speaking at meetings of the Council and its Committees any resident of the Councils district may, subject to various provisions of the article, ask a question at an ordinary meeting of the council.

No questions have been received from members of the public before the requisite deadline, as outlined in Article 15, before the statutory deadline for publication of the agenda.

If any questions are received before the constitutional deadline, which is, for the purpose of this meeting, 4.30pm on Tuesday, 12 April 2022 they will be circulated prior to the meeting for members' information, under separate cover.

Any question(s) will be heard during the Council meeting on 25 April 2022 and a response will be given by the Leader of the Council or any other member nominated by her.

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	25 APRIL 2022	7
CONFIRMATION OF LEADER AND DEPUTY LEADER 2022/23			

PUBLIC ITEM

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

SUMMARY

Members are invited to confirm the appointment of the Leader and Deputy Leader of the Council for the Municipal Year 2022/23.

RECOMMENDATIONS

1. To confirm Councillor Karen Buckley as Leader of the Council.
2. To confirm Councillor Roger Small as Deputy Leader of the Council.

SUMMARY OF PREVIOUS DECISIONS

A Leader and Deputy Leader were last appointed by Full Council on 19 April 2021.

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	✓

REPORT

1. Members are invited to confirm the appointments of Councillor Karen Buckley as Leader of the Council and Councillor Roger Small as Deputy Leader of the Council.

IMPLICATIONS	
Finance	None arising directly from the report.
Legal	None arising directly from the report.
Community Safety	None arising directly from the report.
Human Rights and Equalities	None arising directly from the report.
Sustainability and Environmental Impact	None arising directly from the report.
Health & Safety and Risk Management	None arising directly from the report.

LEAD AUTHOR	CONTACT DETAILS	DATE
Ian Curtis	ian.curtis@fylde.gov.uk 01253 658506	1 April 2022

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
None		

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	25 APRIL 2022	8

CONFIRMATION OF COMMITTEES AND ALLOCATION OF MEMBERSHIP

PUBLIC ITEM

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

SUMMARY

The council is required annually to confirm the committees that it wishes to appoint and allocate the membership of certain committees in accordance with the principles of political balance under the Local Government and Housing Act 1989.

Members are also asked to re-appoint members to the Member Development Steering Group and to appoint a Mental Health Champion Lead.

RECOMMENDATIONS

1. Appoint the committees and joint committees set out in the appendix for the municipal year 2022-2023, with the same terms of reference as presently agreed.
2. Allocate committee seats in accordance with the principles of political balance as set out in the table in paragraph 7.
3. Invite the political groups (if they have not already done so) to submit their nominations to the seats allocated to them in accordance with the Local Government and Housing Act 1989 and regulations made under it; appoint Mr Peter Clements, Mr Brian Horrocks and Mrs Helen Broughton as co-opted members of the Chief Officer Employment Committee and appoint Fylde's representative to the Blackpool, Fylde and Wyre Economic Prosperity Board.
4. (If nominations have been received from the political groups) Appoint members to seats on committees required to be politically balanced in accordance with the nominations made by the political groups.
5. Appoint members to the Licensing Committee, which is not required to be politically balanced.
6. Appoint eight members to the Member Development Steering Group.

SUMMARY OF PREVIOUS DECISIONS

The council receives a similar report each year at the meeting preceding its annual meeting. In an election year, the report must be presented to the annual meeting.

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	✓

REPORT

APPOINTMENT OF COMMITTEES

1. Under its constitution, the council is required annually to decide which committees to establish for the municipal year; decide the size and terms of reference for those committees; and decide the allocation of seats on those committees to political groups in accordance with the political balance rules where applicable.
2. The appendix sets out the proposed committees for the council for 2022-23. The committees are the same as exist at present and their terms of reference would be as set out in part 3 of the council's constitution. For convenience, their present membership is also set out in the appendix. The council is invited to appoint those committees as its committees for the municipal year 2022-23 with the size and terms of reference as set out.

POLITICAL BALANCE

3. The Local Government and Housing Act 1989 requires the council to calculate the membership of committees in accordance with the requirements of political balance set out in the act. The act also requires that the council give effect to those calculations by allocating seats in accordance with the wishes of the political groups¹ to whom the seats have been allocated². The four principles of political balance can be summarised like this:
 - All seats on a committee must not be allocated to the same group;
 - The majority group must have the majority of seats on each committee;
 - The total number of committee seats across the council must be allocated proportionately to the number of seats each group has on the full council; and
 - The seats on each committee must be allocated in proportion to the number of seats of each group on the full council.
4. The four principles are in order of priority. This means that the second principle is applied subject to the first. Similarly, the third principle is applied subject to the first and the second, and so on.
5. The council must appoint³ at least two co-opted members to its Chief Officer Employment Committee. The co-opted members must be drawn from the independent persons appointed as part of the member standards machinery under the Localism Act 2011. The independent persons only sit as members of the committee for certain business taken under specific legislation⁴.
6. Neither the Licensing Committee⁵ nor the Blackpool, Fylde and Wyre Economic Prosperity Board⁶ is subject to the political balance rules.

¹ A political group must have at least two members to count for the purposes of the 1989 act.

² Where a seat is allocated in accordance with the political balance principles to a member who do not belong to a political group, the choice of non-aligned member to fill the seat rests with the council.

³ See paragraphs 5-6 of schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001.

⁴ See the Local Authorities (Standing Orders) (England) Regulations 2001. When constituted as required under the regulations, the committee is an advisory committee under Section 102(4) Local Government Act 1972. This means that it cannot take a binding decision, it may only make recommendations. As a result, it would be inappropriate to involve the Independent Persons in any other stages of the process or meetings of the Committee (unless they are solely "in attendance" as invitees, rather than "present").

⁵ The Licensing Committee is not subject to the political balance rules because it is appointed under the Licensing Act 2003, not the Local Government Act 1972.

7. The table below sets out the present distribution of seats across committees, which fulfils the requirement for political balance. Committees that are not required to be politically balanced are not included.

Committee	Total seats	Con	Ind	Others
Finance and Democracy	12	8	4	0
Environment, Health and Housing	12	7	4	1
Operational Management	12	7	4	1
Tourism and Leisure	12	7	4	1
Planning	12	7	4	1
Public Protection	11	7	4	0
Audit and Standards	9	5	3	1
Chief Officers Employment	6	4	2	0

The table above is not the only possible permutation which would meet the requirements for political balance.

8. If all of the political groups are able to nominate the individual members they wish to fulfil their allocations on each committee, the council can make those individual appointments at today's meeting. It is obliged to follow the nominations of each group to seats allocated to that group⁷.
9. If appointments to committees are made at today's meeting, members are also invited to appoint a chairman and vice-chairman to each committee.

BLACKPOOL, FYLDE AND WYRE ECONOMIC PROSPERITY BOARD

10. The council is part of a joint committee with Blackpool and Wyre councils known as the Blackpool, Fylde and Wyre Economic Prosperity Board. The membership of the joint committee is one councillor from each authority, with the joint committee also having three co-opted members. The joint committee is not required to be politically balanced⁸.

LICENSING COMMITTEE

11. The Licensing Committee is not subject to the political balance rules. It is concerned exclusively with carrying out the council's responsibilities under the Licensing Act 2003 and the Gambling Act 2005. The committee has a membership of 15 and the council is invited to appoint that number of members to the committee, including appointments as chairman and vice-chairman.

MEMBER DEVELOPMENT STEERING GROUP

12. The Member Development Steering Group is not a committee, but it is convenient to deal with appointments to it in this report. The group is an internal working group, and its functions are leading, co-ordinating and monitoring the Council's actions in delivering the Member Development Strategy and taking the lead on general member welfare matters. The membership of the group is cross party. Its main purpose is to ensure that elected members are fully engaged in the formulation, monitoring and evaluation of member development programmes. It oversees all councillor training and development on behalf of the council.

⁶ The joint committee is not subject to the political balance rules because it is not a body at least three seats on which fall from time to time to be filled by appointments made by the council (see paragraph 1(c) of schedule 1 to the Local Government and Housing Act 1989).

⁷ If not all of the political groups are yet able to nominate individual members to the seats allocated to the group, the council would need to resolve to allocate the seats to the political groups and to invite the groups to nominate individual members to the seats allocated to each group. The committees could not meet until the appointments were confirmed at a council meeting.

⁸ The joint committee is not subject to the political balance rules because it is not a body at least three seats on which fall from time to time to be filled by appointments made by the council (see paragraph 1(c) of schedule 1 to the Local Government and Housing Act 1989).

13. The group has a membership of 8 and the council is invited to appoint that number of members to the group, including appointments as chairman and vice-chairman and member Mental Health Champion lead.

IMPLICATIONS	
Finance	None arising from the report.
Legal	Political balance is a legal requirement for most committees of the council.
Community Safety	None arising from the report.
Human Rights and Equalities	None arising from the report.
Sustainability and Environmental Impact	None arising from the report.
Health & Safety and Risk Management	None arising from the report.

LEAD AUTHOR	CONTACT DETAILS	DATE
Ian Curtis	ian.curtis@fylde.gov.uk 01253 658506	6 April 2022

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
N/A		

Attached documents

Appendix 1 – current committee membership as at 6 April 2022

Committee Membership 2021 - 2022 (Approved at Council 18 Oct 2021)

	Audit & Standards	Chief Officer Employment	Environmental, Health & Housing	Finance & Democracy	Licensing*	Operational Management	Planning	Public Protection	Tourism & Leisure	Blackpool, Fylde & Wyre Economic Prosperity Board *	Member Development Steering Group *
CH	Gaunt, E	Buckley, K	Threlfall, T	Buckley, K	Green, S	Small, R	Fiddler, T	Green, S	Sayward, M	Leader	Andrews, F
VC	Nash, E	Small, R	Dixon, C	Settle, V	Thomas, R	Kirkham, J	Redcliffe, R	Thomas, R	Harrison, G		Nash-Walker, S °
3	Brearley, P	Collins, P	Aitken, B	Anthony, P	Andrews, F	Bamforth, M	Armit, T	Andrews, F	Anthony, P		Bamforth, M
4	Collins, D	Fazackerley, S	Andrews, F	Collins, P	Blackshaw, B	Clayton, A	Harrison, G	Blackshaw, B	Armit, T		Collins, D
5	Collins, P	Oades, L	Brearley, P	Gaunt, E	Clayton, A	Dixon, C	Mulholland, K	Clayton, A	Blackshaw, B		Hardy, P
6	Gill, B	Redcliffe, R	Griffiths, N	Nulty, L	Collins, D	Gill, B	Nixon, J	Harrison, G	Fazackerley, S		Morris, M
7	Harris, W		Hardy, P	O'Rourke, D	Fazackerley, S	Hodgson, P	Nulty, L	Henshaw, K	Green, S		O'Rourke, D
8	Hayhurst, P		Harris, W	Oades, L	Harrison, G	Morris, M	Oades, L	Hodgson, P	Lee, M		Willder, V
9	Singleton, J		Henshaw, K	Redcliffe, R	Henshaw, K	Mulholland, K	O'Rourke, D	Jacques, A	Little, C		
10			Lloyd, R	Silverwood, E	Hodgson, P	Rigby, B	Speak, H	Sayward, M	Mulholland, K		
11	Broughton, H*	Broughton, H*	Nash-Walker, S	Singleton, J	Jacques, A	Trudgill, S	Thomas, R	Trudgill, S	Settle, V		
12	Clements, P*	Clements, P*	Rigby, B	Withers, M	Lee, M	Willder, V	Trudgill, S		Silverwood, E		
13	Horrocks, B*	Horrocks, B*			Sayward, M						
14					Trudgill, S						
15					Willder, V						
							Substitutes x 10				
							Brickles, J				
							Clayton, A				
							Gill, B				
							Griffiths, N				
							Hardy, P				
							Collins, P				
							Andrews, F				
							Jacques, A				
							Kirkham, J				
							Willder, V				
	Conservative: 5	Conservative: 4	Conservative: 7	Conservative: 8	Conservative: 0	Conservative: 7	Conservative: 7	Conservative: 7	Conservative: 7		Conservative: 0
	Independent: 3	Independent: 2	Independent: 4	Independent: 4	Independent: 0	Independent: 4	Independent: 4	Independent: 4	Independent: 4		Independent: 0
Other	Non Aligned: 1	Non Aligned: 0	Non Aligned: 1	Non Aligned: 0	Non Aligned: 0	Non Aligned: 1	Non Aligned: 1	Non Aligned: 0	Non Aligned: 1		Non Aligned: 0
	* Statutory Independent Persons	* Statutory Independent Persons			* not required to be politically balanced					* not required to be politically balanced	* not required to be politically balanced
											- Mental Health Champion
	Lead Officer - Paul O'D		Lead Officer - Tracy M	Lead Officer - Allan O	Lead Officer - Ian C	Lead Officer - Allan O	Lead Officer - Mark E	Lead Officer - Ian C	Lead Officer - Allan O		Lead Officer - Lyndsey L

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	25 APRIL 2022	9
APPOINTMENTS TO OUTSIDE BODIES 2022/23			

PUBLIC ITEM

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

SUMMARY

The Council makes appointments to outside bodies each year. In a non-election year, these are confirmed at the last ordinary meeting prior to Annual Council meeting.

Following Council's decision in 2016, where possible, the programme committees would usually make recommendations to the outside body appointments from within their respective memberships.

The current list of outside bodies and those members nominated to them by the committees during the March 2022 cycle of meetings is attached as an appendix.

Members are also asked to confirm the removal of Outside Bodies that have either completed their projects or are no longer required and approve new Outside Bodies as recommended by their relevant committee.

RECOMMENDATION

1. To review the nominated appointments to outside bodies for the 2022/23 municipal year, as shown in appendix 1.
2. To approve the addition of Growth Lancashire Ltd to the list of Outside Bodies and to appoint the Leader of Council, and the Deputy Leader as a named substitute, as the council's representative.
3. To approve the addition of BAE Co-ordination to the list of Outside Bodies and to appoint Councillor Tommy Threlfall, as the council's representative

SUMMARY OF PREVIOUS DECISIONS

Full Council – 19 April 2021 – Appointments to Outside Bodies for 2021/22

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	✓

REPORT

1. Nominations were considered at the March cycle of meetings and these are included at appendix 1.

2. In a non-election year, appointments to Outside Bodies are confirmed at the last ordinary meeting prior to the meeting of Annual Council.
3. The current protocol is that members are required to produce regular reports on the bodies on which they serve, currently every six months. These reporting forms will come to the programme committee to which the external partnership relates.
4. The council is also asked to confirm the removal of the Arts Working Group Outside Body from the list of outside bodies due to the recent conclusion of its work.
5. In addition, the council is asked to confirm the addition of Growth Lancashire Ltd as an outside body as recommended by the Finance and Democracy Committee on 28 March 2022 and BAE Co-ordination as recommended by the Environment, Health and Housing Committee on 29 March 2022.

IMPLICATIONS	
Finance	None arising directly from the report.
Legal	None arising directly from the report.
Community Safety	None arising directly from the report.
Human Rights and Equalities	None arising directly from the report.
Sustainability and Environmental Impact	None arising directly from the report.
Health & Safety and Risk Management	None arising directly from the report.

LEAD AUTHOR	CONTACT DETAILS	DATE
Democratic Services	01253 658546	28 March 2022

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
None		

Attached documents

Appendix 1 – Nominations from Committees for approval

Outside bodies / partnerships attended by Elected Members	Parent Committee	Seats Occupied	Nominations for Approval at Council on 25 April 2022
Arts Partnership for Fylde	T&L	1	Councillor Michael Sayward
Arts Working Group	T&L	1	For removal
BAE CoOrdination	EH&H	1	Councillor Tommy Threlfall
Blackpool Airport and Hillhouse Enterprise Zone Project Board	F&D	1	Deputy Leader - Councillor Roger Small
Childrens Partnership Board	EH&H	1	Councillor Will Harris
Community Projects Fund	F&D	1	The Mayor
Community Safety Partnership	EH&H	1	Councillor Tommy Threlfall (named substitute Councillor Jayne Nixon)
Council for Voluntary Services, BWF	EH&H	1	Councillor Michelle Morris
Duty to Cooperate	Planning	2	Chairman and Vice Chairman of Planning Committee
East Lytham Working Group	EH&H	1	Councillor Roger Lloyd (named substitute Councillor Threlfall)
Education Liaison Committee (Planning)	Planning	3	Councillors Richard Redcliffe and Linda Nulty
YMCA Housing (Face to Face)	EH&H	1	Councillor Viv Willder
Fairhaven Lake & Gardens Restoration Project Board	T&L	1	Councillor Michael Sayward
Fylde Arts Association	T&L	1	Councillor Michael Sayward
Fylde Citizens Advice Bureau	EH&H	3	Councillors Linda Nulty, Noreen Griffiths and John Singleton
Fylde Coast LGBT Strategic Partnership	EH&H	1	Councillor Shirley Green
Fylde Coast Women's Aid	EH&H	1	Councillor Viv Willder
Fylde Coast YMCA Partnership Board	T&L	1	Councillor Gavin Harrison
Fylde & Wyre Health & Wellbeing Partnership	EH&H	1	Councillor Viv Willder
Fylde Peninsular Water Management Group	EH&H	1	Councillor Tommy Threlfall (named substitute Councillor Roger Lloyd)
Growth Lancashire Ltd	F&D	1	Leader of the Council (Named substitute Deputy Leader)
Highways and Transportation Group	Planning	3	Councillors Liz Oades, Chris Dixon and Stan Trudgill
Just Good Friends	EH&H	1	Councillor Karen Henshaw
Lancashire Enterprise Partnership (LEP) Joint Scrutiny Committee	Planning	1	Councillor Chris Dixon
Lancashire Health and Wellbeing Board	EH&H	1	Councillor Viv Willder
Lancashire Waste Partnership	OpMgmt	1	Chairman of Operational Management Committee
LCC Health & Scrutiny Committee	EH&H	1	Councillor Viv Willder
Local Government Association (LGA)	F&D	1	Leader of the Council
Springfield Site Stakehold Group	EH&H	2	Councillors Roger Lloyd and Tommy Threlfall
Lowther Trust	T&L	1	Councillor Sue Fazackerley MBE
Lytham Town Trust	T&L	1	Councillor Ray Thomas
Lytham Hall Partnership	T&L	1	Councillor Shirley Green
MATAC	EH&H	1	Councillor Roger Lloyd
North West Employers Organisation	F&D	1	Chairman of Finance and Democracy Committee (named substitute Councillor Vince Settle)
North West of England & the Isle of Man Reserve Forces & Cadets Association	F&D	1	Councillor Ed Nash
One Fylde (formerly Ormerod Trust)	EH&H	1	Councillor Angela Jacques
Park View 4U Group	T&L	1	Councillor Michael Sayward
PATROL	OpMgmt	1	Councillor John Kirkham
Police and Crime Commissioner Panel	EH&H	2	Councillors Tommy Threlfall and Frank Andrews
Registered Providers (RSO) Partnership (formerly Registered Social Landlords (RSL))	EH&H	1	Councillor Jayne Nixon
Sintropher Working Group	OpMgmt	1	Councillor John Kirkham
South Fylde Line Community Rail Partnership	F&D	1	Councillor Vince Settle
St George's Day Festival Committee	T&L	1	Councillor Cheryl Little
Key Green = a Limited Company Pink = a Limited Company that is also a Registered Charity Blue = an Unincorporated Association Grey = a Statutory Body			EH&H nominations from 29/3/22 mtg T&L nominations from 10/3/22 mtg OpMgmt nominations from 15/3/22 mtg Planning nominations from 30/3/22 mtg F&D nominations from 28/3/22 mtg

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
TECHNICAL SERVICES	COUNCIL	25 APRIL 2022	10
CHANGING PLACES			

PUBLIC ITEM

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

SUMMARY

The Council has been successful in applying for funding to install Changing Places facilities at three locations across the Fylde Borough.

The report requests that Council approve a new capital scheme 'Changing Places' within the Council's Capital Programme for the sum of £120,000, to be fully funded by Changing Places Grant funding of £108,000 and £12,000 to be funded from the Capital Investment Reserve.

RECOMMENDATIONS

Council is requested to:

1. Approve a new fully funded capital scheme 'Changing Places' within the Council's Capital Programme for the sum of £120,000 (2022/23 - £40,000 and 2023/24 - £80,000) to be fully funded by Changing Places Grant funding of £108,000 and £12,000 to be funded from the Capital Investment Reserve;
2. Authorise the drawdown expenditure of £40,000 in 2022/23 to install one Changing Places facility within the North Beach Windsports building as part of proposed refurbishment works as detailed within the body of the report and note that a further drawdown report will be presented to Operational Management Committee for the remaining £80,000.
3. Note the potential future costs for the Council for ultimately delivering the scheme which will be contained within current budget provision;

SUMMARY OF PREVIOUS DECISIONS

On 7 February 2022 Full Council Resolved to approve the recommendations of the Finance and Democracy and Operational Management Committees support full council awarding the retendered Public Convenience contract for cleansing and maintenance to Danfo UK Ltd for a period of 15 years based on the tender submission and evaluation assessment identifying Danfo as the best value for money option.

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	✓

REPORT

BACKGROUND

1. During summer 2021 the government sought applications for funding to create Changing Places facilities across the Country. These facilities are larger accessible toilets for people who cannot use standard accessible toilets, with equipment such as hoists, curtains, adult-sized changing benches, and space for carers. The fund is supported by Muscular Dystrophy UK who will supply specialist support to Local Authorities to ensure facilities meet user requirements.
2. Over 250,000 people in the country need these facilities to enable them to get out and about and enjoy the day-to-day activities many of us take for granted. Research indicates the locations where the facilities are most needed includes in shopping areas and at tourist attractions, such as beaches and parks which would enable users, their families, and carers to 'have a day out' and undertake more recreational activities with dignity, confidence, and freedom.
3. Within the Fylde Borough there are currently only two publicly accessible Changing Places registered with www.changing-places.org; one at The Ormerod Home Trust on Headroomgate Road, St Annes and one at Jubilee House in Lytham. Both facilities are only open during the working week. In addition YMCA St Annes Pool and Gym on South Promenade, St Annes, also allow members of the public to use their facilities.
4. A funding application was submitted in September 2021 for 5 locations for the estimated costs of creating these facilities with a suggested 10% contribution from Fylde Council. The locations were:
 - a. North Beach Windsports Centre, St Annes (integrated into the current building)
 - b. St Annes Monument Toilets (additional stand-alone building)
 - c. Fairhaven Lake (at the time of applying no location had been identified so an additional stand-alone building was costed)
 - d. Lowther Gardens (integrated into a current building)
 - e. Kirkham Town Centre (at the time of applying no location had been identified but assumed the facility could be integrated into an existing building)
5. Following the initial application, feedback was received from the funders that additional stand-alone buildings wouldn't be funded so St Annes Monument Toilets and Fairhaven Lake were removed from the application. If Fylde Council wishes to further explore these locations being implemented a further round of grant applications has been announced for later in 2022.
6. On 24th March 2022 the Council was advised that the [funding application had been successful](#). Based on an estimated cost of £120,000 for the three locations, the grant allocated is £108,000 with a further £12,000 contribution from Fylde Council.

COST OF SCHEME AND METHOD OF FINANCING

7. When the funding application was submitted, an estimate of £40,000 per location was used based on cost estimates that had been prepared for the refurbishment of the North Beach Windsports Centre. As a result the estimated total costs for the 3 locations was £120,000, funded by £108,000 from the Department for Levelling Up, Housing and Communities for Changing Places and £12,000 from Fylde Council's Capital Investment Reserve.
8. The refurbishment of the North Beach Windsports Centre is scheduled over summer 2022, during which a Changing Places facility will be installed at an estimated cost of £40,000. Drawdown of this capital funding is requested as part of this report
9. The exact location of the facility to be located at Lowther Gardens has yet to be identified and the timescale for installation will be determined by the Lowther Trust's schedule of works. The location of the building

where a Changing Places facility can be located within Kirkham has not yet been identified. Once these uncertainties have been addressed and a scheme of work has been costed a further drawdown report will be submitted to the Operational Management Committee for approval, possibly in 2023/24.

Table 1 – Estimated spend profile for Changing Places

	2022/23 (estimate)	2023/24 (estimate)	Total
Total expenditure on Changing Places facility	£40,000	£80,000	£120,000

10. Council is requested to approve a new fully funded capital scheme ‘Changing Places’ within the Council’s Capital Programme for the sum of £120,000 (2022/23 - £40,000 and 2023/24 - £80,000) to be fully funded by Changing Places Grant funding of £108,000 and £12,000 to be funded from the Capital Investment Reserve.

PROCUREMENT AND VALUE FOR MONEY

11. The installation of the Changing Places facility at the North Beach Windsports Centre will be carried out alongside planned refurbishment work due to take place Spring/Summer 2022. Construction, including mechanical, electrical and drainage works plus decorating will be procured alongside the works to be carried out to refurbish the rest of the building. Quotes will be sought for the procurement and installation of specialist Changing Places equipment from specialist suppliers.
12. Proposals for the design of the Changing Places facility and the equipment to be procured will be referred to Muscular Dystrophy UK to ensure the facility meets user needs.
13. A drawdown report for the Lowther Gardens and Kirkham locations will be submitted to the Operational Management Committee for approval once locations have been identified and costed.

FUTURE BUDGET IMPLICATIONS

14. Potential future costs for the Council for ultimately delivering the scheme which will be contained within current budget provision. As part of Danfo’s recent successful tender to clean Fylde Council’s public toilets for the next 15 years they pledged to clean any Changing Places facilities for free. From Danfo’s experience they have advised that costs to maintain the facilities should be minimal and will be contained within existing maintenance budgets. Bi-annual equipment service costs are about £180 per annum per facility will also be contained within existing maintenance budgets.

RISK ASSESSMENT

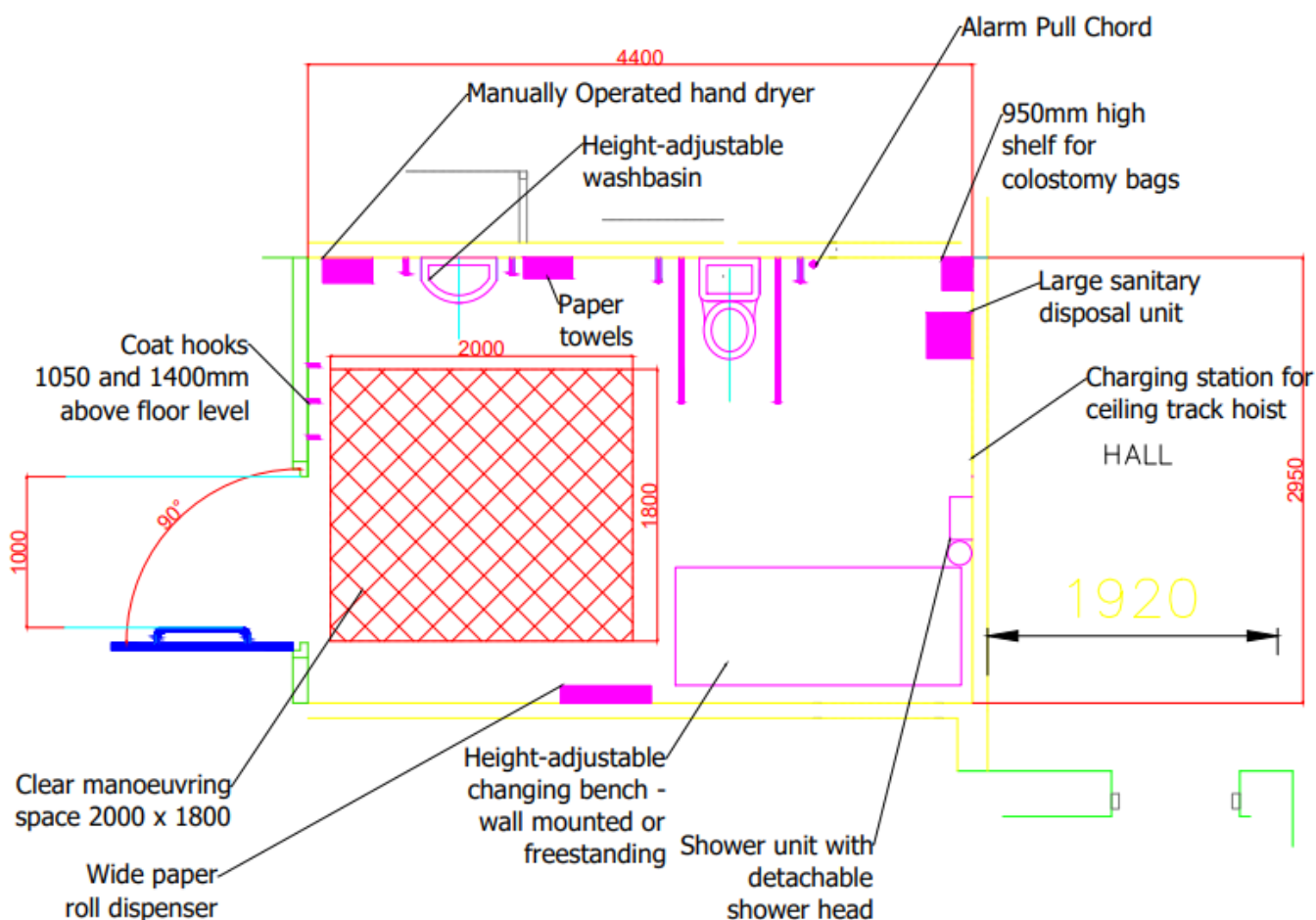
15. With the original funding application based on an estimate of £40,000 for the North Beach Windsports Centre, costs for Lowther Gardens and Kirkham, such as structural amendments to buildings, is unknown. Revised estimated costs will be calculated once the locations have been confirmed. These will be included as part of the drawdown report to be considered by the Operational Management Committee at a later date.
16. Currently no location has been identified for the Kirkham facility. Officers at Fylde Council will be exploring options that may present themselves through the current Kirkham Regeneration scheme as well as opening discussions with Kirkham Town Council and other partners to identify a suitable location where the facility can be located. Due to state aid rules the location will need to be owned by a public sector organisation or charity.

VIABLE ALTERNATIVES

17. The locations that have been agreed with the funder cannot be altered. Other locations were proposed but discounted by the funder. A further funding round is proposed for later in 2022 so the Council may wish to submit a revised application for these as well as any other suitable locations.

DRAWINGS AND PLANS

18. The proposed layout for the Changing Places facility at North Beach Windsports centre is as set out below.



CONCLUSION

19. Approve a new fully funded capital scheme 'Changing Places' within the Council's Capital Programme for the sum of £120,000 (2022/23 - £40,000 and 2023/24 - £80,000) to be funded by Changing Places Grant funding of £108,000 and £12,000 to be funded from the Capital Investment Reserve, Authorise the drawdown expenditure of £40,000 in 2022/23 to install one Changing Places facility within the North Beach Windsports building. Members should also be cognisant of the potential future costs for the Council for ultimately delivering the scheme which will be contained within current budget provision.

IMPLICATIONS	
Finance	This report requests approval of a new fully funded capital scheme 'Changing Places' for inclusion within the Councils Capital Programme for the sum of £120,000 (£40,000 in 2022/23 and £80,000 in 2023/24) to be fully funded by Changing Places Grant funding of £108,000 and £12,000 from the Capital Investment Reserve; Authorise the drawdown expenditure of £40,000 to install one Changing Places facility within the North Beach Windsports building and note a further report will be presented to Operational Management Committee for the remaining £80,000. Members should also be cognisant of the potential future costs for the Council for ultimately delivering the scheme which will be contained within current budget provision.

Legal	There are no implications arising directly from this report.
Community Safety	There are no implications arising directly from this report.
Human Rights and Equalities	There are no implications arising directly from this report.
Sustainability and Environmental Impact	There are no implications arising directly from this report.
Health & Safety and Risk Management	There are no implications arising directly from this report.

LEAD AUTHOR	CONTACT DETAILS	DATE
Andrew Loynd	andrew.loynd@fylde.gov.uk	April 2022

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
N/A		

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	25 APRIL 2022	11
REVISED CODE OF CONDUCT FOR ELECTED MEMBERS			

PUBLIC ITEM

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

SUMMARY

In January 2019, the Committee on Standards in Public Life published a report on local government ethical standards, an area of long-standing interest for the committee.

The report outlined several proposed recommendations, some of which would require a change in legislation (no changes to date), and others considered to be of a best practice nature to drive high ethical standards within local authorities which councils could implement without a change in legislation.

A number of these recommendations related to the code of conduct, and as a result the Local Government Association (LGA) developed a non-mandatory, model code of conduct.

Following two workshops to consider the LGA's model code of conduct; one with both Blackpool and Fylde's respective Monitoring Officers (MO's), senior governance officers and the three shared Independent Persons (IP's); and the other with the respective MO's, senior governance officers and Chairmen and Vice Chairmen of Blackpool and Fylde's Audit and Standards Committee together with an opposition member from each council (Councillor Brian Gill representing Fylde) a revised code has been developed.

As a result of these workshops, this revised code was presented to the Audit and Standards Committee on 17th March 2022 for consideration and recommended the adoption of the revised code to council.

RECOMMENDATION

1. To adopt the revised Code of Conduct for Elected Members.

SUMMARY OF PREVIOUS DECISIONS

[Audit and Standards committee 17 March 2022](#)

It was RESOLVED:

1. To recommend that the Council adopts the revised Code of Conduct attached at Appendix A of the report;
2. That the code is shared with the 15 Town and Parish Councils across the Borough, inviting them to consider if they wish to adopt it locally;
3. Following adoption of the revised code by the Council, that the Member Development Steering Group, is invited to consider adding a training event on ethical standards, to outline the content and provisions of the revised code, to its programme of activity.

[Audit & Standards - 20th May 2021](#) – outlined that the model code had been published and agreed that it should be considered by the chairmen and vice-chairmen of the respective councils together with one opposition member from each council, the three IP's and MO's.

[Audit & Standards - 26th November 2020](#) – report on the position with respect to the development of a model Code of Conduct by the Local Government Association – progress was noted, and members requested a further update in due course.

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	✓

High ethical standards are required across all council activity; hence this reports cuts across all the council's corporate priorities.

REPORT

- Members will recall that in January 2019, the Committee on Standards in Public Life published a report on local government ethical standards, an area of long-standing interest for the Audit and Standards Committee.
- The report outlined several proposed recommendations, some of which would require a change in legislation, and others considered to be of a best practice nature to drive high ethical standards within local authorities which councils could implement without a change in legislation.
- A number of these related to the code of conduct, and as a result the Local Government Association (LGA) subsequently developed a non-mandatory, model code of conduct.
- Following two workshops to consider the LGA's model code of conduct; one with both Blackpool and Fylde's respective Monitoring Officers (MO's), senior governance officers and the three shared Independent Persons (IP's); and the other with the respective MO's, senior governance officers and Chairmen and Vice Chairmen of Blackpool and Fylde's Audit and Standards Committee together with an opposition member from each council (Councillor Brian Gill representing Fylde) a revised Code of Conduct has been developed.
- The revised code is effectively a hybrid-model of the council's existing code, together with the LGA model code. Broadly, the interest provisions within the council's existing code were considered superior to the content of the model code. Conversely the strengthened nature of the LGA's code in terms of general obligations, together with the explanatory information, was considered to give a more thorough context.

IMPLICATIONS	
Finance	There are no financial implications arising directly from this report
Legal	The Localism Act 2011 gives council's freedom to adopt a local code of conduct.
Community Safety	There are no implications arising directly from this report.
Human Rights and Equalities	There are no implications arising directly from this report.
Sustainability and Environmental Impact	There are no implications arising directly from this report.
Health & Safety and Risk Management	There are no implications arising directly from this report.

LEAD AUTHOR	CONTACT DETAILS	DATE
Tracy Manning	tracy.manning@fylde.gov.uk & Tel 01253 658521	29 March 2022

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Minutes from Audit & Standards		<u>Council Website</u>

Attached documents

Revised Code of Conduct for Elected Members

[] Council Code of Conduct for Members
Effective from: Approved by Council on:

Preamble

General

- A. This is the code of conduct adopted by XXX Borough Council under section 27(2) of the Localism Act 2011. It consists of this preamble, general principles, code obligations and explanatory information.
- B. In this document:
“the code” means this code of conduct
“councillor” means anybody who the code applies to, including both councillors and co-opted members.
- C. The **general principles** set out what the code is intended to achieve and provide the context for the code obligations. The **code obligations** set out what councillors must or must not do when the code applies to them. The **explanatory information** gives guidance and examples about how the code obligations should be understood and applied.

Scope

- D. The code applies to elected councillors from when they sign their declaration of acceptance of the office of councillor and co-opted members from when they attend their first meeting and continues to apply until they cease to be in office.
- E. The code obligations apply when councillors are acting in their capacity as a councillor which includes when they:
- misuse their position as a councillor
 - give the impression that they are acting as a councillor or
 - act as a representative of the council on another body.
- F. The code applies to all forms of communication and interaction, including:
- face-to-face meetings
 - online or telephone meetings
 - written communication
 - verbal communication
 - non-verbal communication and
 - electronic and social media communication, posts, statements and comments.

Sanctions

Failure to comply with the provisions of this Code may result in a sanction being imposed:

- by the council (if it relates to the Code itself or a personal/prejudicial interest); or
- through criminal proceedings (if it relates to a Disclosable Pecuniary Interest which may result in a criminal conviction and a fine up to £5,000 and/ or disqualification from office for a period of up to five years).

General principles

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles (see Appendix 1).

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- *I act with integrity and honesty*
- *I act lawfully*
- *I treat all persons fairly and with respect; and*
- *I lead by example and act in a way that secures public confidence in the role of councillor.*

In undertaking my role:

- *I impartially exercise my responsibilities in the interests of the local community*
- *I do not improperly seek to confer an advantage, or disadvantage, on any person*
- *I avoid conflicts of interest*
- *I exercise reasonable care and diligence; and*
- *I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.*

You are also expected to uphold high standards of conduct and lead by example when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the code.

Town and Parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer. As the respective Town and Parish Councils have responsibility for adopting their own Codes, the provisions of these Codes may differ.

Code obligations and explanatory information

1. Respect

Code obligation:

1.1 You must treat all others with respect

Explanatory information:

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to any relevant authority. This also applies to fellow councillors, where action could then be taken under the code, and local authority employees, where concerns should be raised in line with the local authority's councillor/officer protocol. The principle behind this section is that you should treat others how you would want to be treated yourself.

2. Bullying, harassment and discrimination

Code obligations:

2.1 You must not bully any person

2.2 You must not harass any person

2.3 You must promote equalities and not discriminate unlawfully against any person

2.4 You must not do anything which would breach or cause your local authority to breach the provisions of Equality Act 2010.

Explanatory information:

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

Code obligation:

- 3.1 You must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Explanatory information:

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

Code obligation:

- 4.1 You must not disclose confidential information except where:**
- **You have the consent of the person authorised to give it**
 - **You are required by the law to do so**
 - **You disclose the information to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person**
 - **You make the disclosure in good faith, and in compliance with the reasonable requirements of the authority, in the public interest**
- 4.2 You must not do anything which would breach or cause you or your local authority to breach the provisions of the Data Protection Act 2018.**

Explanatory information:

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner, for example if it relates to individuals or ongoing negotiations.

5. Disrepute

Code obligation:

5.1 You must not bring your role or local authority into disrepute.

Explanatory information:

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of the code.

6. Use of position

Code obligation:

6.1 You must not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else.

6.2 You must have regard to the obligations of your local authority under the [Code of Recommended Practice on Local Authority Publicity](#) made under the Local Government Act 1986.

Explanatory information:

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

You should also have regard to the Code of Recommended Practice on Local Authority Publicity, which requires that publicity issued by local authorities should be objective and even handed.

7. Use of local authority resources and facilities

Code obligation:

7.1 When using the council's resources, you must do so in accordance with the authority's requirements and ensure that resources are not used improperly (including improperly for political purposes)

Explanatory information:

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery

- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Decision Making

Code obligations:

- 8.1 You must have regard when reaching decisions, to advice provided to you by the authority's Chief Finance Officer or Monitoring Officer when they are acting in accordance with their statutory duties.**

Explanatory information:

You should have regard to the advice of the statutory officers mentioned above and take this into account, even if you choose not to follow it. If you choose not to follow the advice, you should be able to provide reasons for not doing so.

9. Complying with the Code of Conduct

Code obligations:

- 9.1 You must undertake all relevant training about the code provided by your local authority.**
- 9.2 You must cooperate with any investigation or other procedure carried out by your local authority in connection with an allegation of a breach of the code.**
- 9.3 You must not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or procedure in connection with an allegation of a breach of the code.**
- 9.4 You must comply with any sanction imposed on you following a finding that you have breached the code.**

Explanatory information:

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

10. Interests

Code obligations:

10.1 You must register and disclose your disclosable pecuniary interests as required by law

10.2 You must register and disclose your personal and prejudicial interests as required by appendix 3

Explanatory information:

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable.

You are personally responsible for deciding whether you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

Disclosable pecuniary interests (sometimes called 'DPIs') are set out in law by the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Appendix 2 describes the provisions about disclosable pecuniary interests.

Appendix 3 is the part of the code that sets out the detailed provisions about personal and prejudicial interests that apply to councillors.

You must comply with the rules in appendix 2 and appendix 3, where they apply. If in doubt, you should always seek advice from your Monitoring Officer.

11. Gifts and hospitality

Code obligations:

11.1 You should exercise caution in accepting gifts or hospitality in circumstances where a reasonable person would conclude that the gift or hospitality was given to you because you are a councillor, or because of any role or position that you hold in the council or a political group, unless the value of the gift or hospitality is trivial.

11.2 You should exercise caution in accepting gifts or hospitality in circumstances where a reasonable person would suspect that the person giving the gift or hospitality is a person seeking to do business with the council or who may be considering applying to the council for any permission, licence or other significant advantage.

11.3 You must register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.

Explanatory information:

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered and the reason for acceptance is given. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance. A record of hospitality accepted by the Mayor is recorded by his/her secretary in the diary of events. However, any gifts offered to the Mayor during the course of his/her duties should be recorded.

Appendix 1 – The Seven Principles of Public Life (the ‘Nolan’ principles)

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix 2 – Disclosable pecuniary interests ('DPIs')

General

A2.1 This appendix explains the statutory requirements of the Localism Act 2011 (Sections 29- 34) in relation to disclosable pecuniary interests (DPIs). These are enforced by criminal sanction.

A2.2 A **disclosable pecuniary interest** is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) of the descriptions set out at the end of this appendix.

A2.3 You must:

- (i) Notify the Monitoring Officer in writing within 28 days of becoming a member, or within 28 days of any change or becoming aware of any existence of a DPI.
- (ii) Make a verbal declaration (at the beginning or as soon as you become aware of your interest) of the existence and nature of any DPI at any meeting at which you are present where an item of business which affects or relates to the subject matter of the interest is under consideration.
- (iii) Comply with the statutory requirements to withdraw from participating in respect of any matter in which you have a DPI and comply with the Council's Procedure Rules by leaving the room.

Dispensations

A2.4 The Audit and Standards Committee may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

Offences

A2.5 It is a criminal offence to:

- fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election, or becoming aware of a disclosable pecuniary interest
- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the Register
- fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

A2.6 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

Categories of Disclosable Pecuniary Interests (DPIs)

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority -</p> <ul style="list-style-type: none"> (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to your knowledge) –</p> <ul style="list-style-type: none"> (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	<p>Any beneficial interest in securities of a body where</p> <ul style="list-style-type: none"> (a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and (b) either – <ul style="list-style-type: none"> (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (j) if that share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Appendix 3 – Personal interests and prejudicial interests

This appendix sets out requirements made by the council that form part of the code.

A3.1 Personal Interests

- A3.1.1 You have a **personal interest** where a decision in relation to that business might reasonably be regarded as affecting:
- (i) Your well-being or financial position of a member of your family or any person with whom you have a close association
 - (ii) A body of which you are a member or in a position of general control or management and have been appointed or nominated to it by your authority.
 - (iii) A body of which you are a member (other than another local authority) exercising functions of a public nature, any body directed to charitable purposes or any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management.

A3.1.2 You must:

- (i) Notify the Monitoring Officer in writing within 28 days of becoming a member, or within 28 days of any change or becoming aware of any existence of a personal interest set out in paragraph A3.1.1 (ii) and (iii) above.
- (ii) Make a verbal declaration (at the beginning, or as soon as you become aware of your interest) of the existence and nature of any personal interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of the interest is under consideration.

A3.2 Prejudicial interests

A3.2.1 Your personal interests would become **prejudicial** in the following instances:

- (i) Where a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment of the public interest AND where that business:
 - (a) affects your financial position or the financial position of a person or body through whom the interest arises or
 - (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person through whom the interest arises.

A3.2.2 You must:

- (i) Make a verbal declaration (at the beginning, or as soon as you become aware of your interest) of the existence and nature of any prejudicial interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of the interest is under consideration.
- (ii) Comply with the Council's Procedure Rules by withdrawing from any discussion of the matter at the meeting, and you may not participate in any vote taken on the matter at the meeting.

A3.2.3 Where you have a prejudicial interest you may attend a meeting but only for the purpose of

making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and provided that you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

A3.3 General dispensations

A3.3.1 You may attend a meeting and vote on a matter where you have an interest that relates to the functions of the authority relating to:

- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease
- (ii) an allowance, payment or indemnity given to members
- (iii) any ceremonial honour given to members
- (iv) setting council tax or a precept under the Local Government Finance Act 1992
- (v) another local authority

A3.4 Sensitive interests

A3.4.1 Where you consider that disclosure of the details of a personal or prejudicial interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	COUNCIL	25 APRIL 2022	12
LOWTHER GARDENS TRUST – RENEWAL OF SERVICE LEVEL AGREEMENTS INCLUDING NEW SUBSIDY REQUEST			

PUBLIC ITEM

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

SUMMARY

The Council currently has a five-year Service Level Agreement with the operating company of Lowther Gardens Trust, Lowther Gardens (Lytham) Management Ltd, to provide a range of theatrical and cultural services at Lowther Pavilion. As part of this Agreement, the Trust must provide a performance report to the Tourism and Leisure Committee annually.

The current Service Level Agreement expires 31 March 2022, and Members are requested to consider the proposed terms and continuation of this Agreement, including an increase to the existing subsidy of £31,668 by an additional £12,000 per annum, to provide a total annual subsidy of £43,668 over a 3-year term commencing 1 April 2022. The reasons for this proposed increase are detailed in the report.

In addition to the above, there is a supplementary Service Level Agreement between Fylde Council and Lowther Gardens Trust, to cover several ancillary services to be delivered by Fylde Council within Lowther Gardens, including parks management, grounds maintenance, public conveniences, building maintenance, engineering service and leisure services. This Agreement also expires 31 March 2022, and Members are requested to consider the terms and continuation of this Agreement, as detailed in the report.

This report presented to Full Council on 25 April 2022 includes additional information provided in response to enquiries that were raised at the Tourism and Leisure Committee on 10 March 2022, in particular to provide clarification that the additional subsidy amount is not just to cover the cost of VAT relevant to the community groups using the facility.

RECOMMENDATIONS

Council is requested to approve:

1. An annual unfunded revenue budget increase of £12,000 to Lowther Gardens Trust in the years 2022/23, 2023/24, 2024/25. This would create a total annual subsidy of £43,668 per annum for the next 3 years.
2. To approve the continuation of the Service Level Agreement (Appendix 1) regarding the provision of theatre services at Lowther Pavilion by the operating company of Lowther Gardens Trust, Lowther Gardens (Lytham) Management Ltd.
3. To approve the terms and continuation of the Supplementary Service Level Agreement between Fylde Council and the Lowther Gardens Trust (Appendix 2) as summarised in this report.

SUMMARY OF PREVIOUS DECISIONS

Tourism and Leisure Committee - 10 March 2022

Following detailed consideration of this matter it was RESOLVED:

1. To recommend to Full Council an annual unfunded revenue budget increase of £12,000 to Lowther Gardens Trust in the years 2022/23, 2023/24, 2024/25. This would create a total annual subsidy of £43,668 per annum for the next 3 years.
2. That subject to the approval of Full Council of the additional funding in recommendation 1 above, to approve the continuation of the Service Level Agreement as set out in Appendix 1 of the report regarding the provision of theatre services at Lowther Pavilion by the operating company of Lowther Gardens Trust, Lowther Gardens (Lytham) Management Ltd.
3. To approve the terms and continuation of the Supplementary Service Level Agreement between Fylde Council and the Lowther Gardens Trust as set out in Appendix 2 of the report and summarised in the report.

Tourism and Leisure Committee - 3 November 2016

Following detailed consideration of this matter it was RESOLVED:

1. To recommend to Council an annual unfunded revenue budget increase of £31,668 to provide an annual subsidy to Lowther Gardens Trust in the years 2017/18, 2018/19, 2019/20, 2020/21 and 2021/22.
2. To recommend to Council the continuation of the Service Level Agreement as detailed in Appendix 2 of the report regarding the provision of services at Lowther Pavilion by the operating company of Lowther Gardens Trust, Lowther Gardens (Lytham) Management Ltd.
3. To agree the terms and continuation of the supplementary Service Level Agreement between Fylde Council and the Lowther Gardens Trust as set out in Appendix 3 of the report.

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	✓

BACKGROUND

1. Lowther Gardens was registered as a charitable trust in 2006, with the Council as sole trustee. Since 2006 several independent trustees have been appointed, with a total of 8 trustees currently in post. The Council remains as a trustee and is represented at trust meetings by Councillor Susan Fazackerley.
2. The Head of Cultural Services and the Head of Governance also attend the trust meetings, to support the delivery of the Council's strategic ambitions within the Corporate Plan 2020–2024 regarding services delivered at Lowther Pavilion.
3. Lowther Gardens (Lytham) Management Ltd was set up in February 2011 as the operating company of Lowther Gardens Trust, to deliver the day-to-day operation of Lowther Pavilion.
4. The previous service level agreement between Fylde Council and Lowther Gardens (Lytham) Management Ltd. was agreed by the Tourism and Leisure Committee on 3 November 2016, for a 5-year period commencing 1 April 2017. In the agreement, the Council agreed to pay a subsidy over the five-year period as follows:

Year	Amount of Subsidy
2017/18	£31,668
2018/19	£31,668
2019/20	£31,668
2020/21	£31,668
2021/22	£31,668

5. In 2017/18, the Council agreed to provide a loan of £50,000 to Lowther Trust, to assist with the replacement of the roof on the Pavilion, to ensure the venue would be energy efficient and therefore achieve financial savings to the running costs of the theatre. Lowther Trust pay an annual loan repayment of £5,000 to Fylde Council, which is deducted from the annual subsidy listed in the table above. This arrangement commenced in 2017/18 and expires in 2026/27. The loan agreement does not form part of this Service Level Agreement.
6. The previous Service Level Agreement 2017 to 2022 specified that Lowther Gardens (Lytham) Management Ltd ("the Provider") as the operating company of Lowther Gardens Trust would deliver the services in accordance with identified performance measures:
 - The maintenance and development of Lowther Pavilion as a cultural community facility, for the benefit of residents of and visitors to the Borough.
 - The provision of a balanced and diverse programme of performing arts and entertainment, including dance, drama, music, musical theatre, variety, and comedy; encouraging innovation using new technology and the support of new writing and performing talent.
 - The development of new audiences and encouragement of existing audiences to visit more frequently, building participation in the arts locally, accessible to all sectors of the community through programming, marketing, and community engagement work.
 - The promotion of the performing arts in Fylde, supporting and developing local amateur groups, volunteers, and the wider community. The pavilion shall be available for hire by local amateur performance groups for a minimum of 120 sessions per year. The definition of an 'amateur performance group' is one that is based in Fylde Borough or has active participation from residents who live in the Borough. The 'amateur performance group' must be hiring the theatre for cultural or community endeavours (Dance, Drama, Music, Art, or community support events e.g., dementia support groups). The groups must primarily be not for profit.
 - The free use by the Council of Lowther Pavilion and its facilities for up to 10 Council meetings per year and the annual Mayor making ceremony on dates to be provided to the Provider in advance by the Council as soon as reasonably practicable.
 - The Provider shall make best endeavours to make available the Pavilion for use in the event of a civil emergency as a rest centre or similar facility.
 - The development of service provision may change over time to reflect the current nature of standard business practice in the entertainment industry. All development will encompass the core values as presented in the Trust's artistic policy.
 - Quarterly meetings will be held between representatives of the Provider and the Council, where the information required by this agreement will be reviewed.
 - If requested to do so, the Provider will make an annual presentation to the Tourism and Leisure Committee (or other such appropriate elected member group) at the conclusion (or as near to as possible) of each year of the operation of the Service Level Agreement summarising its performance and service during the year, including financial performance – annual outturn against the budget.

- The Services to be provided within the operating budget, provided in accordance with clause 18¹.
 - A breakdown of the number of complaints received from service users and how they have been resolved.
 - Number of sessions utilised by local amateur groups, volunteers, and the wider community.
 - Number and percentage of self-promoted shows which breakeven and/or make a profit
 - The Trust will provide evidence that it is meeting art council and theatre management association industry standards in relation to customer satisfaction, audience profiling and quality of opportunity both for the visitor, local population and visiting companies. Income generation to develop the service offered and development work to encourage greater community use of the facilities. The Trust and the Council will work together to develop a greater understanding of all creative activities across the Borough.
7. In November 2016, the Tourism and Leisure Committee agreed to continue to provide several ancillary services to Lowther Trust under a supplementary Service Level Agreement relating to the maintenance of Lowther Gardens. Services included parks management, grounds maintenance, public conveniences, car parking, building maintenance (excluding Lowther Pavilion), engineering service and leisure Services. The budget for the delivery of these services is retained by the Council and delivered at no charge to the Trust. This Agreement also expires 31 March 2022.
8. The costs of delivering these services are included in existing approved revenue budgets. There have been no additional costs to Fylde Council arising from the delivery of this supplementary Service Level Agreement.

CURRENT PERFORMANCE

9. There are regular meetings between the Trust and council officers to review performance. A representative of the Trust has provided and presented a performance report annually to the Tourism and Leisure Committee, including a post pandemic review.
10. Members of the Tourism and Leisure Committee were invited to a 'guided tour' of Lowther Pavilion in January 2022, to gain a better understanding of the day-to-day management of the theatre.
11. Delivery of most services during the pandemic have proved to be very challenging, with the arts and cultural sector being one of the most significantly impacted. Lowther Trust have managed the service efficiently throughout the pandemic and are confident that the service is in a financially sustainable position if the continuation of the proposed Service Level Agreements is supported by Elected Members.
12. In addition to the delivery of theatrical and cultural services, the Trust are committed to the delivery of several exciting developments to the theatre and grounds including a new studio theatre and education centre and a new Padel tennis facility within the Gardens. These initiatives will bring greater self-sufficiency to the Trust reducing the requirement for subsidy support.
13. Representatives of Lowther Trust attended the Tourism and Leisure Committee meeting on the 10 March 2022 and provided service updates as well as answers to questions and enquiries raised by elected members. This included discussion on the range of factors that have led to a request for an additional subsidy over the next three years during which the development works will be taking place at the pavilion.

FINANCIAL SUBSIDY FROM FYLDE COUNCIL

14. In December 2021, representatives of Lowther Gardens Trust made a formal request to the Council for a continuation of both Service Level Agreements and the annual subsidy of £31,668, to be paid to the operating company of Lowther Gardens Trust, Lowther Gardens (Lytham) Management Ltd, to ensure the sustainable management of Lowther Pavilion.
15. A request was also made for an additional subsidy of £12,000 per annum for a three-year period because of several factors which include:
- a. New VAT implications that need to be recharged to community groups
 - b. Post COVID recovery requirements for re-opening the venue
 - c. Unforeseen increased cost across multiple goods and services

- d. Support whilst events and attendances return to pre COVID capacity
 - e. Disruption during the current development work at the pavilion.
16. Discussion at the Tourism and Leisure committee on 10 March 2022 focused on the VAT implications that would potentially fall on community groups using the facility which is the primary reason for the additional subsidy request of £12,000 per annum for a three-year period but it was not the only factor that had increased operational and post COVID recovery costs.
 17. The main reason for the additional subsidy request was because Lowther Trust have been advised by a VAT specialist of recent changes by HMRC relating to VAT charges on room hire. The VAT specialist advised that VAT exemption on room hire will no longer apply when other supplies and services are included for example, where room hire includes lighting, sound systems, apparatus, sound technicians etc. which is almost always the case at Lowther. The Trust were advised to 'opt to tax' which would allow the Trust to recover any VAT incurred from room bookings and other activities including expenditure against the ongoing capital development works at Lowther. 'Opting to tax' also means that the Trust will need to charge VAT on room hire to all users, even if the customer hires the room without supplies or services, at a rate of 20%.
 18. The Service Level Agreement requires the Trust to permit a minimum of 120 amateur community performance group sessions per year. The Trust have provided an average room hire charge rate of £500 per session to all users including community groups. The new VAT charge would be passed on to the community groups. The Trust enquired whether Fylde Council would support community groups by providing an additional subsidy, most of which would allow the Trust to provide a discounted room hire rate, to support local amateur performance groups, this was estimated to be more than £10,000 based on the requirement to provide hire to at least 120 community groups.
 19. The proposal supported by the Tourism and Leisure Committee is to increase the existing annual subsidy of £31,668 by £12,000 for a three-year period to contribute towards discounted room hire rate to community based amateur performance groups as well as other increased operational, goods and services cost and mitigation towards the significant impact of the COVID pandemic on theatre and live entertainment. The annual subsidy would be £43,668 for a three-year period during which the major redevelopment is delivered. The provision and allocation of the discounted room hire allowance would be the responsibility of the Trust. The Trust will be responsible for providing detailed information to ensure that the required minimum number of community group sessions are permitted as described in the Agreement (Appendix 1).
 20. The discounted Amateur Performance Group Sessions may not be used for any purpose except to remit such proportion as the Trustees may determine of the hire rate for a community based Amateur Performance Group that has been approved for the purposes of this schedule by the Trustees (whether before or after the use has taken place) and which is carried out by a Local Group.
 21. The Trustees have the discretion to decide which Amateur Performance Group use to approve, and the proportion of the hire rate that is to be remitted.
 22. The latest medium term financial strategy shows the existing annual subsidy of £31,668. If Elected Members support the provision of further financial support for Lowther of £12,000 per annum, it will be an annual unfunded revenue budget growth item.
 23. The Budget Working Group has considered this request and recommends that the existing subsidy of £31,668 is increased by £12,000 per annum supporting discounted room hire to community based amateur performance groups, to mitigate the increased costs of goods and services and to contribute to the post pandemic recovery. This will be part of a new 3-year Service Level Agreement (Appendix 1). A shorter three-year agreement is proposed because the proposed capital project works to the theatre should be completed in this time which will increase the self-sufficiency of the Trust.
 24. A 3-year financial forecast has been supplied by Lowther Trust relating to the management of Lowther Pavilion and is included as Appendix 3, showing the new proposed subsidy from Fylde Council of £43,668.
 25. Any agreement after the three-year arrangement would need to be formally requested by the Trust and subject to consideration by the Tourism and Leisure committee and Full Council. It is hoped the ambition for the expanded and improved facilities will have been realised and the Trust will have secured a stronger financial position.

26. Officers have reviewed the current Service Level Agreement for consideration and the proposed Agreement is included as Appendix 1, including the annual subsidy of £43,668.
27. If the recommended subsidy increase is supported, the Council would be requested to increase the revenue budget by £12,000 per annum, providing a total subsidy of £43,668 as per the table below, for 3 years as shown. The loan payment of £5,000 per annum relating to the theatre roof improvements will be taken from the subsidy before it is paid to the Trust.

Year	Amount of Subsidy
2022/23	£43,668
2023/24	£43,668
2024/25	£43,668

SUPPLEMENTARY SERVICE LEVEL AGREEMENT

28. In December 2021, Lowther Trust requested that the Supplementary Service Level Agreement which also expires on 31 March 2022, to also be extended. This Agreement provides the following services to Lowther Trust without direct separate charge: parks management, grounds maintenance, public conveniences, building maintenance (excluding Lowther Pavilion), engineering services and leisure services.
29. During the term of the Supplementary Service Level agreement the standard of maintenance relating to grounds and structures throughout the Gardens has remained high. The site has retained Green Flag accreditation and is part of the successful Lytham 'In Bloom' annual submission which has constantly reached gold standard.
30. The cost of delivering these public realm services in Lowther Gardens will be met from existing approved revenue budgets held by Fylde and delivered to the Trust without separate charge.
31. The car parking service is now managed directly by Lowther Trust.
32. The Budget Working Group and Tourism and Leisure Committee have considered this request and recommend that the existing Service Level Agreement relating to Ancillary Services be extended for a further 3 years (Appendix 2).

FUTURE REVENUE BUDGET IMPACT

33. Continuation of the Service Level Agreement between Fylde and Lowther Management Company including an increase of £12,000 per annum for the next three years, would require an unfunded revenue budget increase of £12,000 from 2022/23 to 2024/25.
34. Continuation of the Service Level Agreement for the delivery of Ancillary Services by Fylde Council to Lowther Gardens Trust will have no impact on existing revenue budgets for the services within this agreement.

IMPLICATIONS	
Finance	The Council's base revenue budget contains ongoing provision of £31,668 per annum as a subsidy to support the operation of Lowther Trust. The report recommends that Full Council approve an annual unfunded revenue budget increase in the sum of £12,000 in 2022/23, 2023/24 and 2024/25 to provide a total annual subsidy to Lowther Trust of £43,668 for the next 3 years. Further details are set out in the report.
Legal	All services including subsidies within this report form part of Service

	Level Agreements.
Community Safety	None arising directly from this report
Human Rights and Equalities	None arising directly from this report
Sustainability and Environmental Impact	None arising directly from this report
Health & Safety and Risk Management	None arising directly from this report

LEAD AUTHOR	CONTACT DETAILS	DATE
Mark Wilde	mark.wilde@fylde.gov.uk & Tel 01253 658475	March 2022

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
None		

Attached Documents

Appendix 1 – Lowther SLA Theatre Management

Appendix 2 – Lowther SLA Ancillary Services

Appendix 3 – Draft 3-year plan 2022-2025

Service Level Agreement for the Management of Lowther Pavilion **Appendix 1**

Date: 1 March 2022

Parties

(1) Fylde Borough Council ("the Council") (2) Lowther Gardens (Lytham) Management Ltd. ("the Provider") as the operating company of Lowther Gardens Trust

Interpretation

In this agreement the following words have the following meanings:

Annual Grant	£43,668
Default Notice	A notice fulfilling the requirements of clause 29 and a Default Notice is "unresolved" at any time that the concerns raised in it have not been addressed to the reasonable satisfaction of the Council
Amateur Performance Groups	Non-professional groups or societies in Fylde who provide staged performances. £12,000 of the Council Grant to be used to discount the cost of hire for the Amateur Performance Groups
Grant Periods	Each period of one year commencing on 1 April in each of 2022, 2023 and 2024
Performance Measures	The performance measures set out in the Second Schedule
Poster Sites	The advertising poster sites listed in the third schedule including, where the context permits, part of such a site.
Scheme	The scheme governing the charity known as Lowther Gardens, Lytham dated 3 June 2009, as amended 17 January 2011, 18 May 2015, 30 November 2016 and 10 November 2021 (or any subsequent amendment)
Services	The services provided at Lowther Pavilion set out in the First Schedule

Status of Agreement

1. The Council has agreed to pay a grant to the Provider to enable it to provide the Services at Lowther Pavilion. The Council is satisfied that paying a grant for these purposes is likely to achieve the promotion or improvement of the economic, social, or environmental wellbeing of the Council's area. The Services provided by the Provider contribute towards delivery of the Council's strategic ambitions within the Corporate Plan 2020 – 2024.
2. This Agreement sets out what the Provider is to do, how its performance will be measured and what happens if the Services are not provided as required by this Agreement.
3. This Agreement is not intended to constitute a contract between the Council and the Provider, and the Council shall not be legally bound to pay the Annual Grant.

The Annual Grant and the Grant Period

4. The Council will (subject to as hereinafter provided) pay the Annual Grant each year to the Provider to enable the Provider to deliver the Services during each Grant Period.
5. The Annual Grant will be paid in the following instalments in each year of the Grant Period:

Date	Amount
1 April	£10,917
1 July	£10,917
1 October	£10,917
1 January	£10,917

6. At least three months prior to the end of each Grant Period (except the Grant Period beginning 1 April 2024), the parties shall make best endeavours to negotiate a level of Service provision that reflects the Annual Grant for the next Grant Period. In the unlikely event the parties to this Agreement are unable to reach mutually acceptable terms on the provision of the Services this Agreement shall terminate on 31 March in that current Grant Period.
7. The Provider must comply with the Performance Measures and any specific guidance issued by the Council in deciding how it will spend the Annual Grant.

8. The Provider must apply the Discounted Amateur Performance Groups Sessions in accordance with the Fourth Schedule and communicate in writing to those groups that the discount is facilitated by the Council grant.
9. In addition to the Annual Grant, the Council may (at its discretion) pay a termination payment of up to the equivalent of one instalment of the Annual Grant for any Grant Period to the Provider on the last day of that Grant Period, if and to the extent that:
 - The Council does not propose to pay the Annual Grant in respect of the year immediately following the end of that Grant Period.
 - The Provider does not intend to provide the Services or services similar to the Services during that year; and
 - The Provider demonstrates to the Council's satisfaction that the termination payment is needed to facilitate a reasonably justifiable winding-down of its service

The Services

10. The Provider will deliver the Services at the times and in the manner set out in this Agreement and in accordance with the Performance Measures.
11. The Provider will supply such information as the Council may reasonably demand from time to time about its provision of the Services to enable the Council to assess the Provider's compliance with the Performance Measures.

Lead Officers

12. Each party has nominated an officer to be the primary point of contact and an address for service on all matters concerning Annual Grants, this agreement, or the Services. The nominated officers are:

Council: Head of Cultural Services, Town Hall, Lytham St Anne's, Lancashire FY8 1LW

Provider: Chairman, Lowther Gardens Trust, Lowther Pavilion, West Beach, Lytham St Anne's, Lancashire FY8 5QQ

Governance

13. The Provider will be wholly responsible for the day-to-day financial and accounting functions in relation to the delivery of the Services from within its own resources. It must ensure that there are proper financial management arrangements in place in accordance with the UK Generally Accepted Accounting Practice (GAAP). These will include the following:
 - A financial audit trail from allocation of spend to activity or service delivery
 - Records of spending decisions

- Evidence of spend and payments made
 - Evidence of activity undertaken
 - Records of income generated
 - Records of all other funding secured
 - Professionally audited annual accounts
 - Quarterly management accounts
 - Evidence of contracting and procurement procedures carried out for significant items of expenditure, to ascertain value for money
14. The Provider will keep accurate financial records in accordance with GAAP and will make them available to the Council on request, including access to all relevant receipts and invoices. The records must in particular provide a clear audit trail of how any Grant has been used.
 15. The Provider will supply to the Council a copy of its pre-audited accounts 3 months after the end of each Grant Period and a copy of the professionally audited accounts within 6 months of the end of each Grant Period.
 16. The Provider will supply a copy of its annual budget to the Council one month in advance of the commencement of each Grant Period, which must reflect the Annual Grant payable by the Council for the provision of the Services.
 17. The Provider will supply quarterly management accounts to the Council showing details of expenditure and income in the period and accumulated figures against budget for the year to date. Where the financial statements are inconsistent with the reasonable expectations of the Council the Provider will clarify and give reasons for the situation, explaining how the agreed budget will be achieved.
 18. All spending decisions of the Provider must be within the known resources available to the Provider at the time of making the decision.
 19. Any costs, allowances or expenses incurred by the Provider as a result of providing financial information, documents, or records to the Council or for attendance at any meetings with Council representatives will be the responsibility of the Provider.
 20. The Provider will supply the Council with a schedule of dates when any external audit or accreditation inspection of the Services will be undertaken and provide the Council with a copy of any resulting report.
 21. The Provider will, both in providing the Services and generally, comply with all relevant statutory requirements, including those related to health and safety and equalities. The Provider acknowledges that such compliance is the sole responsibility of the Provider and agrees to indemnify the Council against all costs, claims, demands, proceedings, and liabilities whatsoever arising out of the performance of the Services. The Council does not, either by the payment of the Annual Grant, by entering into this agreement or otherwise take, accept, or assume any responsibility for any non-compliance by the Provider.

22. The Provider will ensure that there are appropriate internal procedures in place to manage risks and ensure good governance practice. The Provider will provide to the Council such evidence as the Council reasonably requires that risk management measures are being undertaken to mitigate threats to the future operation of the Services and that good governance practice is operational. Performance on risk management and governance measures will form a part of the quarterly monitoring meetings, including details of any changes to the register of interests maintained by the Trust.
23. The Provider provides the Services in its own right and not as agent or partner of the Council. The Council will not indemnify the Provider for negligence or any other breach of duty other than for death or personal injury caused by the negligence of the Council or its servants or agents.
24. The Provider will maintain adequate insurance to cover any liabilities arising from the performance of the Services. It will allow the Council to inspect its policies on request and submit copies of such policies to the Council's Lead Officer on an annual basis.
25. Throughout each Grant Period, the Provider will prominently acknowledge the funding the Council provides on official stationery, social media, all main promotional material, and publications of the Provider, incorporating the logo of the Council where space allows. Where relevant, all publicity and PR undertaken by the Provider must also clearly acknowledge and refer to the Council as a funder. The discount awarded to the Amateur Performance Groups is to refer to the Council as the funder.
26. Any approaches to the press with respect to any matter relating specifically to the terms of this Agreement should be jointly agreed through consultation between the Provider and the Council.
27. The Council agrees to reserve the Poster Sites for the use of the Provider, subject to the Provider complying with the following conditions:
 - At any given time, at least 50% of the Poster Sites (not including those in the Lowther Grounds) are to be available for use by community groups or other non-commercial organisations (within a reasonable period of advertising).
 - Not to charge any community group or other non-commercial organisation a rate for using any Poster Site which could be deemed unreasonable in relation to the costs involved in displaying the poster, administration, and its eventual removal.
 - Any bookings made with the Council for use of a Poster Site before the date of this agreement will be honoured.
 - The Provider will maintain the Poster Sites at its own expense in a safe and fit condition, including removing fly posting and graffiti within 7 days.
 - The Provider will remove out of date advertising within 7 days.
 - The Provider acknowledges that the Council may, in its discretion, remove a Poster Site after consulting the Provider within 7 days.

- The Provider acknowledges that upgrading of the Poster Sites will be subject to the usual planning process and require the approval of the Council.
- The Provider co-operates with Lancashire County Council concerning the use of the Poster Site at St Anne's library.

Default in Performance

28. In the event that the Provider ceases to provide the Services the Council:

- will cease to be under any obligation to pay any further instalment of any Annual Grant: and
- may, at its absolute discretion (but subject to clause 31), require the Provider to repay any or all of the most recent instalment of any Annual Grant that has been paid to the Provider

29. If, having regard to the Performance Measures, and having previously provided written adequate notification of its concerns to the Provider, the Council considers that the performance of the Services has fallen unacceptably below the standard the Council reasonably requires pursuant to this Agreement, the Council may, notwithstanding anything else in this agreement, withhold the payment of any instalment of an Annual Grant until it considers that the performance of the Services have returned to an acceptable standard.

30. If, having, withheld three or more instalments of an Annual Grant pursuant to clause 28 of this agreement, the Council considers that there is no reasonable likelihood that the performance of the Services will return to an acceptable standard within eight weeks, it may give notice to that effect to the Provider and the Provider will then, for the purposes of clause 27, be deemed to have ceased to provide the Services.

31. For the purposes of clause 29 the Council will only be deemed to have provided adequate notification of its concerns if the notification:

- was made in writing to the Provider's representative identified in clause 11; and
- contained (in the opinion of the Council) sufficient detail about the Council's concerns to have given a reasonable organisation in the place of the Provider an adequate opportunity to address them to the reasonable satisfaction of the Council

32. In deciding what proportionate part of any Annual Grant, it considers appropriate to require the Provider to repay under clause 27, the Council will have regard to the following principles:

- If the Provider informs the Council, that it will cease to operate (but not if the Provider has already ceased to provide the Services), the need for the Provider to be able to bring about an orderly closure of the Services including but not

limited to the termination of employment contracts and any statutory redundancy payments

- The Council will only require the Provider to repay sums in respect of Annual Grant that was paid in respect of a Grant Period falling within the financial year then current.
33. The Provider may bid to the Council for capital funding to support any major redevelopment of Lowther Pavilion. This will be considered alongside other demands on the Council's capital resources.
34. The Provider acknowledges that the Annual Grant is not consideration for any taxable supply for VAT purposes to the Council by the Provider.
35. The Provider accepts that the Council may share information about the Annual Grant with any parties of the Council's choice as well as those making requests for information under the Freedom of Information Act 2000.
36. The Provider may not assign any of their rights under this Agreement to any successor or other body.
37. The Provider may not transfer any part of any Annual Grant or this Agreement to another organisation or individual.
38. It is agreed between the parties that the purpose of each Annual Grant is to fund any potential operating deficit in the Provider's resources in respect of the reasonable performance of the Services by the Provider during the relevant Grant Period, considering the need for the Provider to hold a reserve of working capital and future development funding. If during the course of this Agreement it becomes reasonably apparent to the Council that an Annual Grant is no longer required and the Provider is no longer operating at a loss, the Council (at its entire discretion) shall be at liberty (in consultation with the Provider) to withhold payment (in whole or part) of any Annual Grant for such time or periods as it shall deem appropriate. This clause shall not be invoked if the provider is successful in securing revenue and/or capital grants which require specific performance measures beyond those specified in this agreement.

Dispute Resolution

39. For the purposes of this clause:
- 'Dispute' means a dispute issue difference question or claim as between the parties relating to or arising at any time out of this agreement.
 - 'Specialist' means a person qualified to act as an independent expert in relation to the Dispute having experience in the profession in which he practises for the period of at least 10 years immediately preceding the date of referral.

40. Either party may give to the other notice (a 'Dispute Notice') requiring a dispute to be referred to a Specialist and proposing an appropriate Specialist.
41. The party served will be deemed to accept the proposals made in the Dispute Notice unless that party within 10 Working Days of service of the Dispute Notice gives notice rejecting one or more of the proposals or unless each party serves a Dispute Notice on the other contemporaneously.
42. Unless the parties agree or are deemed to agree the appropriate Specialist:
- if the parties do not agree which type of Specialist is appropriate to resolve the Dispute either party may refer that question to the president or next most senior available officer of the Institute of Chartered Accountants England and Wales ('the Institute') who will (with the right to take such further advice as he may require) determine that question and nominate or arrange to have nominated the appropriate Specialist.
 - if the parties do agree the appropriate type of Specialist but do not agree the identity of the Specialist he will be nominated on the application of either party by the president or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist but if no such organisation exists then by the president or next most senior available officer of the Institute.
43. The fees and expenses of the Specialist, including the cost of his appointment, shall be borne as he shall direct and in default of direction are to be borne equally between the parties.
44. The Specialist must afford the parties an opportunity to make written representations to him and an opportunity to make written counter representations on any representations made to him by the other party but is not in any way limited or fettered by such representations and counter representations and is to be entitled to rely on his own judgment and opinion.
45. If a Specialist dies or refuses to act or becomes incapable of acting either party may apply to the president or next available most senior officer to discharge him and appoint another in his place.
46. The parties agree that the decision of the Specialist shall be final and binding upon them.

The First Schedule

The Services

- (i) The maintenance and development of Lowther Pavilion as a cultural community facility, for the benefit of residents of and visitors to the Borough.
- (ii) The provision of a balanced and diverse programme of performing arts and entertainment, including dance, drama, music, musical theatre, variety, and comedy; encouraging innovation through the use of new technology and the support of new writing and performing talent.
- (iii) The development of new audiences and encouragement of existing audiences to visit more frequently, building participation in the arts locally, accessible to all sectors of the community through programming, marketing, and community engagement work.
- (iv) The promotion of the performing arts in Fylde, supporting and developing local amateur performance groups. The pavilion shall be available for hire by local amateur performance groups for a minimum of 120 sessions per year. Records of these activities and organisations must be made available to the council on request and must relate to local performing arts sessions.
- (v) Definition of amateur performance groups. An amateur performance group is defined as one that appears to the Trust to be based in the Fylde Borough region or has active participation from residents who live in the Fylde Borough. The group must be hiring the theatre for amateur performance endeavours (Dance, Drama, Music, Art, etc) The groups must primarily be not for profit.
- (vi) The free use by the Council of Lowther Pavilion and its facilities for the annual meeting of the Council and up to 10 other council or committee meetings per year on dates to be provided to the Provider in advance by the Council as soon as reasonably practicable.
- (vii) The Provider shall make best endeavours to make available the Pavilion for use in the event of a civil emergency as a rest centre or similar facility.
- (viii) The development of service provision may change over time to reflect the current nature of standard business practice in the entertainment industry.

The Second Schedule

The Performance Measures

Quarterly meetings will be held between representatives of the Provider and the Council, where the information required by this agreement will be reviewed.

If requested to do so, the Provider will make an annual presentation to the Council's Tourism and Leisure Committee (or other such appropriate elected member group) at the conclusion (or as near to as possible) of each year of the operation of the Service Level Agreement summarising its performance and service during the year, including financial performance — annual outturn against the budget.

Quantitative

- The Services to be provided within the operating budget, provided in accordance with clause 17.
- A breakdown of the number of complaints and compliments received from service users and how they have been resolved.
- Number of sessions utilised by local amateur performance groups, volunteers, and the wider community.
- Number and percentage of self-promoted shows which breakeven and/or make a profit

Qualitative

- The Trust will provide evidence that it is meeting Arts Council England and UK Theatre industry standards in relation to customer satisfaction, audience profiling and quality of opportunity both for the visitor, local population and visiting companies, income generation to develop the service offered and development work to encourage greater community use of the facilities.

The Third Schedule

The Poster Sites

Twelve double-crown boards at the Crescent, St Anne's

Two double-crown boards at St Anne's Library

Four double-crown boards at St Pauls Avenue, St Anne's

Four double-crown boards at the entrance to Fairhaven Lake

The Fourth Schedule

In this schedule:

1. "Amateur Performance Group" means a non-professional groups or society in Fylde who perform on the stage.
2. "the Trustees" means the trustees for the time being of Lowther Gardens, Lytham (registered charity no. 1117054) or such panel or committee of them as have been tasked to give or withhold approvals under this schedule.
3. The Discounted Amateur Performance Group Sessions may not be used for any purpose except to remit such proportion as the Trustees may determine of the hire rate for an Amateur Performance Group that has been approved for the purposes of this schedule by the Trustees (whether before or after the Use has taken place) and which is carried on by a Local Group.
4. The Trustees may decide in their absolute discretion which Amateur Performance Group Uses to approve, and the proportion of the hire rate that is to be remitted.

Fylde Borough Council

Date

Lowther Gardens (Lytham) Management Ltd
(as operating company of Lowther Gardens Trust)

Date

Appendix 2:

Service Level Agreement for the Delivery of Ancillary Services by Fylde Council

This Agreement is made the 1 March 2022

Between

- (1) FYLDE BOROUGH COUNCIL of Town Hall, Lytham St Anne's, Lancashire FY8 1LW ('FBC') and**
- (2) LOWTHER GARDENS TRUST of Lowther Pavilion, West Beach, Lytham, Lancashire FY8 5QQ ('LGT').**

1.0 Introduction

1.1. FBC will provide the services (except schedule 3 - car parking service) described in this Agreement for the period 1 April 2022 to 31 March 2025. These services are listed below and more particularly described in clause 5 ('the Services').

- Schedule 1. Parks management
 - Ground's maintenance service
 - Children's play area maintenance
 - Arboricultural service
 - Park's development & project function
- Schedule 2. Public conveniences service
- Schedule 3. Car parking service
- Schedule 4. Technical services, building maintenance & Engineering services
- Schedule 5. Leisure services

2.0 Operating Framework

2.1 The aim of the agreement is to set out a framework and approach to the delivery of the services that will assist Lowther Trust's commitment towards sustaining and continuously improving the standards of Lowther Gardens including all current services, facilities, and site infrastructure.

2.2 The details of this agreement provide a basic formal framework between Lowther Trust (LGT) and Fylde Borough Council (FBC) within which both parties have stated objectives. The agreement has capacity for flexibility, sustainability, change and evolution.

3.0 Key Aims and Objectives

3.1 **LGT:** *"To maintain, improve and sustain Lowther Gardens including all facilities, assets and infrastructure to a high-quality standard that meet all the needs and expectations of local residents and visitors".*

3.2. **FBC:** *“To provide and sustain a range of quality services and facilities that meet the standards set by LGT”.*

3.3. **Joint:** *“The aims of both parties are to forge a strong and positive working relationship and share the commitment towards achieving the highest possible service delivery and value for money”.*

4.0 Terms and Conditions

4.1 This Agreement relates to the period from 1st April 2022 to 31st March 2025 and may be extended by agreement between the parties. Any extension to this initial period will be subject to negotiation and on full agreement of both parties.

4.2 **Warranties, liability, and indemnities.** FBC warrants that it will use reasonable care and skill in performing the Services (to the standard generally accepted within the relevant industry, sector, or profession)

4.3 If in the opinion of LGT, FBC performs the services negligently or materially in breach of this Agreement, then, LGT shall give written notice to FBC to complete the relevant services. FBC shall consider the contents of the notice and if accepted will re-perform the relevant part of the Service in accordance with the notice within a reasonable time. LGT's notice must be served no later than 12 months from the date of expiry of this agreement or any extension of it. In the event that FBC shall dispute the contents of any notice received, it shall refer the matter for resolution in accordance with the procedure for dealing with disputes under this Agreement.

4.4 Neither party shall be liable to the other party in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs, or expenses of any nature whatsoever incurred or suffered by that other party of an indirect or consequential nature including without limitation any economic loss or other loss of turnover, profits, business, or goodwill.

4.5 This Agreement shall not constitute or imply any formal partnership, joint venture, agency, fiduciary relationship, or other relationship between the parties other than the contractual relationship expressly provided for in this Agreement. Neither party shall have, nor represent that it has, any authority to make any commitments on the other party's behalf.

4.6 Each party shall indemnify and hold harmless the other from and against all Claims and Losses arising from loss, damage, liability, death, and injury to employees and third parties, infringement of third-party intellectual property, or third-party losses by reason of or arising out of any information supplied to each other, their employees, or consultants, within or without the scope of this Agreement. 'Claims' shall mean all demands, claims, proceedings, penalties, fines and liability (whether criminal or civil, in contract, tort or

otherwise); and 'Losses' shall mean all losses including without limitation financial losses, damages, legal costs and other expenses of any nature whatsoever and pursuant to this indemnity both parties shall take out a policy of insurance with a reputable insurance company containing an indemnity limit of at least £5 million, in any one claim, unlimited in any one year, in respect of such claims and to produce a copy of such insurance to each other on demand.

4.7 Each of the parties acknowledges that, in entering into this Agreement, it does not do so in reliance on any representation, warranty or other provision except as expressly provided in this Agreement, and any conditions, warranties or other terms implied by statute or common law are excluded from this Agreement to the fullest extent permitted by law.

4.8 **Force majeure.** Neither party shall have any liability under or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that party. The party affected by such circumstances shall promptly notify the other party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than 6 months, either party may terminate this Agreement by written notice to the other party.

4.9 **Amendments.** This Agreement may only be amended or varied in writing when signed by a duly authorised representative of both parties.

4.10 **Entire agreement.** This Agreement contains the whole agreement between the parties and supersedes and replaces any prior written or oral agreements, representations, or understandings between them. The parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement. Nothing in this Agreement excludes liability for fraud.

4.11 **Confidentiality.** Each Party ('Receiving Party') shall keep the confidential information of the other Party ('Supplying Party') confidential and secret, whether disclosed to or received by the Receiving Party subject to the requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 ('the FOI'). Subject thereto, the Receiving Party shall only use the confidential information of the Supplying Party for the Purpose and for performing the Receiving Party's obligations under the Agreement. The Receiving Party shall inform its officers, employees, and agents of the Receiving Party's obligations under the provisions of this clause, and ensure that the Receiving Party's officers, employees, and agents meet the obligations. In the event that the parties receive an information request they shall consult each other prior to disclosing information. The parties shall promptly respond to such consultation within the statutory timescale and if no response is received within that period the other party shall be at liberty to respond without further reference to them. Any response received shall be taken into consideration by the Receiving Party, but they shall have absolute discretion to apply or not to apply any exemptions under the FOI.

4.12 Announcements. Subject to the requirements of FOI referred to in clause 4.11, no party shall issue or make any public announcement or disclose any information regarding this Agreement unless prior to such public announcement or disclosure it furnishes the other party with a copy of such announcement or information and obtains the approval of the other Party to its terms. However, no party shall be prohibited from issuing or making any such public announcement or disclosing such information if it is necessary to do so to comply with any applicable law or the regulations of a recognised stock exchange.

4.13 Dispute Resolution

All disputes shall in the first instance where possible be dealt with in accordance with the manner referred to in clause 7.7. Thereafter, or if LGT or FBC shall so elect, the matter shall be dealt with as follows:

4.13.1 If a dispute arises between the parties either party may refer the dispute for determination in accordance with the procedure set out in this clause.

4.13.2 A dispute referred for determination under this clause shall be resolved by referral in the first instance to the Head of Cultural Services of FBC and the steering group of LGT (clause 7.2 refers) who shall endeavour to jointly resolve the dispute within 21 days.

4.13.3 If any dispute is not resolved within 21 days of its referral pursuant to clause 4.13.2 then the dispute shall be referred to an expert to be agreed between the parties for determination (at their joint expense) provided always that the period of 21 days can be extended by agreement of both parties.

4.13.4 If the parties cannot agree on an expert to act within 14 days of the date of the request to appoint an expert, such independent expert will be appointed by the President or deputy President for the time being of the Chartered Institute of Arbitrators on the application by either party.

4.13.5 The parties agree that the decision of the expert will be final and binding on the parties unless and until set aside by the decision of a Court and the parties agree that this Agreement shall be governed by and construed in accordance with English law and the parties submit to the jurisdiction of the English courts

4.14 Health and Safety. FBC and LGT shall comply with all up to date and relevant health and safety legislation.

4.15 Notices

4.15.1 Any notice required by this Agreement to be given by either party to the other shall be in writing and shall be served personally, or by sending it by registered post or recorded delivery to the address of the parties as stated in this Agreement or such other address as shall be notified to each other from time to time.

4.15.2 Any notice served personally will be deemed to have been served on the day of delivery; any notice sent by post will be deemed to have been served 48 hours after it was posted.

4.16 Waiver

The failure of FBC to enforce at any time or for any period any one or more of the terms or conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all the terms and conditions of this Agreement.

4.17 Contracts (Rights of third parties) At 1999

For the purposes of the Contracts (Rights of Third Parties) Act 1999 it is agreed that nothing in this Agreement shall confer on any third party any right to enforce or any benefit of any term in this Agreement.

4.18 Intellectual property and records

4.18.1 All plans, photographs, illustrations, sketches, diagrams, specifications, calculations, records, computer data, codes of practice or any documents or any other information in whatsoever form (including that accessible by computer) provided by or on behalf of FBC in connection with this Agreement shall at all times be and be deemed for the purposes of this Agreement to be the sole property of FBC. FBC shall have and be deemed for the purposes of this Agreement to have the sole and exclusive ownership of all copyrights and any other intellectual property rights therein.

4.18.2 LGT shall, at the request of FBC or upon the termination of this Agreement, deliver within 28 days all the documents produced, generated, prepared, acquired or created by or on behalf of FBC for the purposes of this Agreement, to FBC's offices.

4.19 **Data Protection.** The parties shall at all times comply with the provisions and obligations of the Data Protection Act 2018 as amended from time to time.

4.20 Law and change in law

4.20.1 'The Law' shall mean any applicable Act of Parliament, sub-ordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the Royal Prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, byelaw, regulatory policy, guidance or industry code, judgement of a relevant court of law, or directives or requirements of any regulatory body of which FBC is bound to comply.

4.20.2 FBC and LGT shall comply at all times with the Law in its performance of this Agreement.

4.20.3 On the occurrence of a change in the Law which has a direct effect upon the any contract prices referred to herein the parties shall meet within fourteen (14) days of FBC notifying LGT of the change in the Law to consult and seek to agree the effect of the change

in the Law and any change in the said contract prices as a result following the principle that this clause is not intended to create an artificial cushion from market forces for FBC. If the parties, within fourteen (14) days of this meeting, have not agreed the occurrence or the impact of the change in the Law, either party may refer the matter to dispute resolution in accordance with clause 4.13.

4.20.4 Any agreed additional sums payable as a result of the operation of clause 4.20.3 shall be included in the said contract price. For the avoidance of doubt nothing in this Agreement is intended to allow FBC double recovery of any increase in costs.

4.21 Bribery and Corruption

4.21.1 LGT shall not offer or give, or agree to give, to any employee, agent, servant or representative of FBC any gift or consideration of any kind as an inducement or reward for doing, any act in relation to the obtaining or execution of the Agreement or any other contract with FBC, or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement or any such contract. The attention of the LGT is drawn to the criminal offences under the Bribery Act 2010.

4.21.2 LGT warrants that it has not paid commission nor agreed to pay any commission to any employee or representative of FBC by the LGT or on its behalf.

4.22.2 Where LGT engages in conduct prohibited by clauses 4.21.1 and 4.21.2 in relation to this or any other contract with FBC, FBC has the right to:

4.22.1 Terminate the Agreement and recover from LGT the amount of any loss suffered by FBC resulting from the termination, or

4.22.2 Recover in full from LGT any other loss sustained by FBC in consequence of any breach of this clause whether or not the Agreement has been terminated.

4.23 Severance. If any provision of this Agreement shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity shall not impair or affect any other provision all of which shall remain in full force and effect.

4.24 Insurance Cover. Both LGT and FBC will hold the relevant insurance cover.

4.241 FBC business insurance is placed with Zurich Municipal Insurance Company, and the policy renewal date is 1st April each year. The two main policies held by the Council are:

- Employer's Liability Insurance £25,000,000
- Public Liability Insurance £25,000,000

4.242 LGT will be responsible for providing its own insurance cover in respect of buildings, employer's liability, and public liability as necessary. LGT are the owners of the site and all facilities within the boundary of the site, and therefore assume the liabilities and responsibilities under the Occupiers Liability Act 1957.

5.0 Description of the Services

5.1 General Obligations. The site and facilities included in this Agreement are the responsibility of “LGT”. However, it is agreed that FBC will be responsible for the day-to-day maintenance of the site and facilities under the terms of this Agreement. FBC will assist “LGT” in undertaking and delivering any improvements or long-term strategic development, but final authorisation and decision making shall remain the responsibility of “LGT”.

5.2 Schedule 1: Parks Management

5.2.1 Ground maintenance service: This Agreement includes the grounds maintenance of Lowther Gardens. Activities will include but are not limited to: Grass cutting, weeding, hedge cutting, litter picking, shrub border maintenance, general cleansing, supply, planting and maintenance of seasonal bedding, installation, and watering of floral containers.

5.2.2 Children’s play area inspection, maintenance, and repair service:

- All inspections and maintenance recommended by the equipment manufactures in accordance with the relevant standards BS. EN 1176/1177.
- The supply and replacement of worn parts, such as swing seats, chains, shackles, and bearings.
- The supply and replacement of damaged parts resulting from vandalism.
- De-scale and painting of playground equipment in accordance with BS. EN 1176/1177.
- Immobilization of dangerous or damaged playground equipment
- Removal but not replacement of condemned equipment.
- Repairs to damaged safety surfacing up to 1.5m square.
- Repair and maintenance of playground perimeter fencing and access gates.

5.2.3 Arboricultural Service: “LGT” and FBC will agree an arboricultural action plan to agree the activities to be undertaken each year. All works will be undertaken on the agreement of both partners.

5.2.4 Parks development & project function: “LGT” and FBC will agree a list of priority projects at the start of the agreement. The development function coordinates all the maintenance, development and longer-term strategic direction relating to the grounds, to ensure a clear long-term vision that is sustainable and meets the need of “LGT” and its partners. The two main purposes of this function are:

5.2.5 To provide “LGT” with the ability to strategically develop and sustain its assets and facilities and assist with:

- Production of strategies and policies relating to the services and assets included in this SLA
- Production of site masterplans and management plans
- Landscape design & project management
- Preparation of tenders, specifications & bills of quantity
- Preparation of estimates
- Tender / cost evaluation
- Seasonal Bedding and planting designs
- External funding bids and grants
- Working with community groups
- Implementation of environmental initiatives

5.2.6 FBC to assist with land stewardship issues:

- Public consultation and community management
- Boundary / party wall issues
- Drainage issues
- Land ownership issues / enforcement
- Anti - social behaviour issues
- Management of small day to day improvements / projects
- Working with 3rd parties – fairgrounds, contractors, residents, war memorial trust, football foundation, UU, allotment association, LCC, LWT & environmental partners
- Green Flag assistance
- North West / Britain in Bloom assistance

5.2.7 Projects and improvements

Works include but are not limited to:

- Fence and gate repairs
- Installation of fences and gates
- Furniture repairs and installations –seats, picnic benches, litter bins etc
- Installation of bollards and signs
- Graffiti removal & power washing
- Paving, edging & minor footpath repairs

- Painting
- Soft landscaping

5.2.8 Larger capital works, such as large landscape changes or wholesale replacement of facilities are outside the scope of this agreement. However, officers from the Parks & Coastal Services Team will assist “LGT” to constantly improve and conserve the site with regard to external funding bids & project management.

5.2.9 Outdoor Events. All outdoor events arranged and organised by LGT are the responsibility of LGT. Any damage caused to the grounds or infrastructure during event set up, during the event or post event will be the responsibility of LGT and any damage must be fully repaired or rectified to pre-event condition by LGT, to the satisfaction of FBC. Operational and financial details of these works must be recorded and be available to FBC on request.

5.3 Schedule 2: Public Conveniences Service

5.3.1 Fylde Council provides a number of public conveniences across the borough under section 87 of the Public Health Act 1936. The provision of public conveniences is not a statutory responsibility; however, such facilities are deemed vital to the Council’s tourist economy. As such, the public conveniences situated at the front of Lowther Gardens have proved to be very popular with visitors to the area.

5.3.2 The operation of these facilities has been contracted out to Danfo (UK) Limited and are outside the scope of this agreement. Danfo are fully responsible for providing operational, repair, maintenance, and cleansing services in respect of these conveniences. Danfo is also required to provided and maintain all necessary equipment and must refrain from using any parts of the premises for any purpose other than the performance of the service.

5.3.3 Council staff conduct regular and thorough inspections of the premises and quality assurance procedures to ensure the correct standards and levels of cleanliness are maintained at all times.

5.3.4 The income is collected by Danfo on behalf of Fylde Council. This income is used to part fund the contract. It should be noted however, that the value of the income does not cover the full contract price for providing these facilities.

5.4 Schedule 3: Car Parking Service

5.4.1 LGT will be responsible for the operation and enforcement of Lowther Gardens car park. This includes enforcing the car park’s conditions of use, provision of a pay and display or other ‘monetary charging initiative’ and the banking of income. LGT will carry out minor maintenance and repair of the car park surface, including but not limited to the in-filling of

potholes, keeping drainage gullies clear, ensuring adequate lining and signs, and maintaining all other car parking related facilities.

5.4.2 Income generated on Lowther Gardens car park as well as the costs associated with operating the car park will be the responsibility of LGT. Income and costs relating to the enforcement of parking conditions will be wholly retained/borne by LGT. Any monetary charging regime or system needs to be done under contract law using a private parking enforcement firm accredited to an approved trade association – British Parking Association or the International Parking Community.

5.5 Schedule 4: Technical services, Building & Engineering service

5.5.1 Repairs & maintenance. FBC Technical services will be responsible for reactive and planned maintenance on the current asset list of buildings and structures at Lowther Gardens (excluding Lowther Pavilion).

5.5.2 The maintenance will be provided as outlined and include but is not limited to Legionella testing, electrical and mechanical testing, and all other statutory duties, that are included within or associated with the buildings and structures (excluding Lowther Pavilion).

5.6 Schedule 5: Leisure Service

5.6.1 FBC will be responsible for the management of all the leisure facilities within Lowther Gardens including crazy golf, bowling pavilion and aviary, but excluding the Padel tennis facility which will be the responsibility of LGT. FBC will also be responsible for providing all apparatus and equipment, except the Padel tennis facility, which will be the responsibility of LGT.

5.6.2 Income from use of the leisure facilities will be taken by the Lowther Pavilion staff. LGT will retain 15% of the income with 85% being paid to FBC at the end of the financial year (early March) via the BACs system, to ensure that the income is included in FBC's previous year's account, except the Padel tennis facility. All income and expenditure relating to the Padel tennis facility will be the responsibility of LGT.

5.6.3 FBC and LGT will agree a procedure for verifying and auditing income to the satisfaction of FBC and in accordance with audit best practice, except for the Padel tennis.

6.0 Miscellaneous

6.1. **Insurances.** LGT will be responsible for providing its own insurance cover including any public liability and building insurance. FBC will be responsible for providing its own insurance cover including any public liability and employee liability insurance.

7.0 Communications

7.1. FBC Representatives. The designated FBC grounds supervisor for the service delivery within this Agreement will be Mr Mick Sumner. Mr Sumner will be the first point of contact for all day-to-day parks operational issues including complaints, requests or issues. Mr Sumner will be supported by a service delivery team. Below shows the service delivery team and their specialisms:

Issue / Request	Contact
Parks Operational Playgrounds repair & maintenance, Arboriculture	Operations Supervisor, Parks – Snowdon Rd, St Annes on the Sea, FY8 3DP
Customer Service / Office	Parks Administration Assistant, Snowdon Rd, St Annes on the Sea, FY8 3DP
Parks Development	Parks Development Officer, Snowdon Rd, St Annes on the Sea, FY8 3DP
Landscape Design	Senior Parks Development Officer, Town Hall, St Annes Rd West, St Annes on the Sea, FY8 1LW
Quality / Finance / Management	Parks & Coastal Services Manager, Snowdon Rd, St Annes on the Sea, FY8 3DP
Public Conveniences	Senior Waste Prevention and Enforcement Officer, Snowdon Rd, St Annes on the Sea, FY8 3DP
Technical Services Building & Engineering	Building Surveyor, Town Hall, St Annes Rd West, St Annes on the Sea, FY8 1LW
Leisure	Sports Development Officer, Town Hall, St Annes Rd West, St Annes on the Sea, FY8 1LW

7.2 LGT Representatives. The Steering group will consist of a minimum of 4 members of the Lowther Trust Board who will authorise any key service changes and development and will be responsible for any key decision making.

Administration of the Agreement will be undertaken by the Trust Board and its representatives.

Role	Contact	Contact Details
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Theatre Manager (Lowther Operational Company)	Timothy Lince	tim@lowtherpavilion.co.uk
Chairman of Lowther Trust	Teresa Mallabone	lowtherchair@lowtherpavilion.co.uk

7.3. **Progress Meetings.** LGT and FBC will meet once per quarter to discuss any parks management service issues including:

- Play and projects
- Grounds Maintenance
- Arboriculture
- Development
- Customer Care and Quality

7.4. **Community Management.** LGT will be responsible for making all decisions with regard to all community projects and initiatives including events. The development officer will work with community groups and stakeholders with all proposals being presented to LGT for approval and authorisation.

7.5 **Public Complaints & Customer Service.** FBC will provide office cover to receive any public enquiries Monday to Thursday 9.00am – 5.00pm and Friday 09:00am 4.30pm. All enquiries will be responded to as a matter of priority and recorded. These will be reported to LGT at the monthly progress meeting.

7.6 **Publicity.** All media involvement and marketing information will be subject to the agreement of both parties and clause 4.12 refers.

7.7. **Service Failures.** Concerns or complaints about the level or quality of the park's management service (including that provided by a specific individual) should in the first instance be raised with the Parks and Coastal Services Manager. Concerns with the other services should be raised with the specified officer on the communications list. An investigation will be undertaken, and a report provided to the Customer on the findings and service improvements to be made. If LGT remains dissatisfied with the Services the matter shall then be dealt with in accordance with the dispute procedure referred to in clause 4.13.

Signatures

Signed on behalf of Lowther Trust

Signed on behalf of Fylde Borough Council

LOWTHER GARDENS (LYTHAM) MANAGEMENT LTD
3 YEAR PLAN 2022 - 2025

INCOME	Year 1 2022/23	Year 2 2023/24	Year 3 2024/25	
Joint Venture shows				
Income	450,000	472,500	496,125	5% Yearly Increase
Expenditure	337,500	354,375	372,094	
Net Income	112,500	118,125	124,031	Gross Profit Margin 25%
Hires				
Hire Fee	83,628	86,137	88,721	3% Yearly Increase
Box Office Commission	60,000	63,000	66,150	Commision on BO Income 8.25%
Total income	143,628	149,137	154,871	
BO Agency				
Sales	100,000	103,000	106,090	3% Yearly Increase
Commission	10,000	10,300	10,609	10% Commission
Bar				
Sales	150,000	157,500	165,375	5% Yearly Increase
Costs	52,500	55,125	57,881	
Gross profit	97,500	102,375	107,494	Gross profit margin 65%
Games				
Income	15,000	15,750	16,538	5% Yearly Increase
Expenditure	12,750	13,388	14,057	
Net income	2,250	2,363	2,481	
Technical				
Income	20,000	21,000	22,050	5% Yearly Increase
Expenditure	12,000	12,000	12,000	
Net income	8,000	9,000	10,050	
Theatre Tokens				
Sales	5,000	5,000	5,000	
Payments and Commission	5,000	5,000	5,000	
Net income	0	0	0	

LOWTHER GARDENS (LYTHAM) MANAGEMENT LTD

3 YEAR PLAN 2022 - 2025

INCOME	Year 1 2022/23	Year 2 2023/24	Year 3 2024/25	
Gift Shop Foyer Outlet				
Sales	10,000	10,500	11,025	5% Yearly Increase
Costs	5,000	5,250	5,513	5% Yearly Increase
Net Income	5,000	5,250	5,513	Gross profit margin 50%
Additionality Projects				
Income	20,000	21,000	22,050	5% Yearly Increase
Expenditure	15,000	15,750	16,538	5% Yearly Increase
Net Income	5,000	5,250	5,513	
Other Income				
Café Rental	16,000	16,000	16,000	
Car Parking	25,000	26,250	27,563	
Advertising	10,000	10,500	11,025	
Community Sponsorship	10,000	10,500	11,025	
Show Merchandise	2,500	2,625	2,756	
Bank Interest	0	0	0	
Miscellaneous	1,000	1,000	1,000	
Total	64,500	66,875	69,369	
Fylde Borough Council	43,668	43,668	43,668	
Total Net Income	492,046	512,342	533,597	

LOWTHER GARDENS (LYTHAM) MANAGEMENT LTD
3 YEAR PLAN 2022 - 2025

OVERHEADS	Year 1 2022/23	Year 2 2023/24	Year 3 2024/25	
Staff Salaries	225,000	236,250	248,063	
Employer NI	10,000	10,500	11,025	
Employer Pension	4,500	4,725	4,961	
Rent/Rates & Insurance	8,500	8,925	9,371	
Heat, Light & Power	10,000	10,800	11,340	
Motor Expenses	1,000	1,030	1,061	
Travelling & Entertainment	500	515	530	
Printing Stationary & Postage	15,000	15,450	15,914	
Promotion	15,000	15,450	15,914	
Credit Card & Internet charges	12,000	12,360	12,731	
Telephone and IT	35,000	36,050	37,132	
Professional Fees	50,000	51,500	53,045	
Equipment Hire, Rental, Repairs	30,000	30,900	31,827	
Property Maintenance	25,000	25,750	26,523	
General Expenses	5,000	5,150	5,305	
Bank Charges	1,500	1,575	1,654	
Loan Interest/Repayments	10,000	10,000	10,000	
FBC Roof Loan Repayment	5,000	5,000	5,000	
Depreciation	15,000	15,450	15,914	
Contingencies	14,340	14,921	15,519	3% of Expenses
Total	492,340	512,301	532,826	
Net Surplus / (Deficit)	(294)	41	771	