

Improvement Programme Board

Agenda

Tuesday 17 May 2011
11.00am

Smith Square Rooms 1 & 2 (Ground floor)
Local Government House
Smith Square
LONDON
SW1P 3HZ

To: Members of the Improvement Programme Board
cc: Named officers for briefing purposes

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LG Group Improvement Programme Board

17 May 2011

There will be a meeting of the **Improvement Programme Board** at 11.00am on **Tuesday 17 May 2011 at Smith Square Rooms 1 & 2 (Ground floor), Local Government House, LONDON, SW1P 3HZ.**

Attendance Sheet

Please ensure that you sign the attendance register, which will be available in the meeting room. It is the only record of your presence at the meeting.

Apologies

Please notify your political group office (see contact telephone numbers below) if you are unable to attend this meeting, so that a substitute can be arranged and catering numbers adjusted, if necessary.

Labour:	Aicha Less: 020 7664 3263 email: aicha.less@local.gov.uk
Conservative:	Angela Page: 020 7664 3264 email: angela.page@local.gov.uk
Liberal Democrat:	Evelyn Mark: 020 7664 3235 email: evelyn.mark@local.gov.uk
Independent:	Group Office: 020 7664 3224 email: independent.group@local.gov.uk

Location

A map showing the location of Local Government House is printed on the back cover.

LGA Contact

Paul Johnston (Tel: 020 7664 3031, email: paul.johnston@local.gov.uk)

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http://www.parkplaza.com/hotels/gbriver?s_cid=se.bmm2175

<http://www.novotel.com/gb/hotel-1785-novotel-london-waterloo/index/shtml>

Improvement Programme Board - Membership 2010/2011

Councillor	Authority
Conservative (6)	
David Parsons CBE [Chairman]	Leicestershire CC
Peter Fleming	Sevenoaks DC
Peter Goldsworthy	Chorley BC
Robert Gordon	Hertfordshire CC
Richard Stay	Central Bedfordshire Council
Andrew Povey	Surrey CC
Substitutes:	
Teresa O'Neill	Bexley LB
Ken Taylor	Coventry City
Labour (4)	
Ruth Cadbury [Deputy Chair]	Hounslow LB
Tony McDermott	Halton BC
Tim Cheetham	Barnsley MBC
Helen Holland	Bristol City
Substitutes:	
Theo Blackwell	Camden LB
Russell Roberts	Rhondda Cynon Taff CBC
Liberal Democrat (3)	
Jill Shortland [Vice-Chair]	Somerset CC
Sir David Williams CBE	Richmond upon Thames LB
Edward Lord JP	Corporation of London
Independent (1)	
Jeremy Webb [Deputy Chair]	East Lindsey DC

LG Group Improvement Programme Board Attendance 2010 -2011

Councillors	09/09/10	17/11/10	18/01/11	21/03/11	17/05/11	19/07/11
Conservative Group						
David Parsons CBE [Chairman]	YES	YES	YES	YES		
Peter Fleming	YES	YES	YES	YES		
Peter Goldsworthy	YES	YES	YES	YES		
Robert Gordon	YES	NO	YES	NO		
Richard Stay	YES	NO	NO	YES		
Andrew Povey	NO	YES	YES	YES		
Labour Group						
Ruth Cadbury [Deputy Chair]	YES	NO	YES	YES		
Tony McDermott	YES	YES	YES	YES		
Tim Cheetham	YES	YES	NO	YES		
Helen Holland	YES	YES	NO	NO		
Lib Dem Group						
Jill Shortland [Vice Chair]	YES	YES	YES	YES		
Sir David Williams CBE	YES	YES	YES	YES		
Edward Lord JP	YES	YES	YES	YES		
Independent						
Jeremy Webb [Deputy Chair]	YES	NO	YES	YES		
Substitutes						
Teresa O'Neill (Conservative Group)	YES					
Russell Roberts (Labour Group)		YES				
Clarence Barrett (Independent Group)		YES				
Ken Taylor (Conservative Group)				YES		

Agenda

Improvement Programme Board

Tuesday 17 May 2011

11.00am

Local Government House

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1.	Future arrangements for audit Julie Carney, Deputy Director, Local Government Quality and Performance, DCLG, will attend for this item.	3
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Date of Next Meeting: 11.00am, Tuesday 19 July 2011

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Future Arrangements for audit

Purpose of report

For discussion and direction

Summary

This report invites members' views on the key issues in the DCLG consultation paper "Future of local public audit" and asks the Board to authorise the lead members to approve the LG Group response in the light of the discussion and the views expressed by councils and FRAs.

Julie Carney, Deputy Director, Local Government Quality and Performance, DCLG will attend the meeting to talk about the DCLG consultation paper.

Recommendations

1. Members confirm the potential key points of an outline response set out at Appendix B ***attached***.
2. Members provide views on the specific issues raised in paras 1 – 7
3. Lead members be authorised to approve the LG Group response in the light of members' views and the views expressed by councils.

Action

Officers prepare a draft response in the light of views expressed by members and councils and secure Lead Members' approval.

Contact officer: Nick Easton
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E-mail: Nick.Easton@local.gov.uk

Future arrangements for Audit

Background

1. On 13 August 2010, Eric Pickles MP, Secretary of State for Communities and Local Government announced plans to disband the Audit Commission and to refocus audit on helping local people hold councils and local public bodies to account for local spending decisions.
2. In summary it was announced that the Audit Commission's responsibilities for overseeing and delivering local audit and inspections will stop; the Commission's research activities will end; audit functions will be moved to the private sector; councils will be free to appoint their own independent external auditors from a more competitive and open market; and there will be a new audit framework for local health bodies.
3. On 30 March DCLG published a consultation paper on the future of public audit, available to view via:
<http://www.communities.gov.uk/publications/localgovernment/localpublicauditconsult>
4. The deadline for responses is 30 June. A full list of the 50 Consultation Questions is **attached** at Appendix A.
5. At the same time the CLG Select Committee initiated an inquiry into the future arrangements for Audit Commission activities. Cllrs Jill Shortland and Robert Light attended to give oral evidence on behalf of the LGA on 7 March.
6. The Audit Commission is currently the main provider carrying out 70% of local public audits through its in-house practice. Government is currently considering a range of options for transferring the Commission's in-house audit practice to the private sector and expects to announce its preferred option ahead of publication of a draft Bill.
7. Julie Carney, Deputy Director, Local Government Quality and Performance, DCLG will attend the meeting to talk about the consultation paper.

Proposed response

8. A full response will be developed in the light of members' views and comments from councils and Fire and Rescue Authorities. Views will be gathered via the Chairman's post-Board newsletter to Council Leaders, via an Alert to Chief

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Executives and through discussions with various sector groups including the County Councils Network and District Councils Network along with the LGA's Fire Service Management Committee.

9. In the meantime members are invited to

9.1 Confirm the potential key points of an outline response set out at Appendix B attached. (This is based on the LGA's evidence to the Select Committee and on previous discussions at the Improvement Board).

9.2 Provide views on the specific issues raised in paras 11 – 23 below.

10. Some Key Issues on which members' views are invited:

11. Appointment of Auditors: has the right balance been struck between allowing councils to appoint their own auditors and preserving the independence of audit?

12. Councils would be under a duty to appoint an auditor. But in order to preserve the independence of auditors, it is proposed that appointments are made by full council on the advice of an audit committee. Legislation will set out the minimum requirements for an audit committee to ensure independent audit appointments. It is envisaged that the majority of members of the committee will be independent of the council; any councillors on the committee would be non-executive and the chair would be independent of the council.

13. It is also likely that the Government would specify audit committees' responsibilities in relation to the engagement of auditors in legislation. This could range from simply providing advice on the engagement, resignation or removal of auditors to a more detailed mandatory role including, for example, policy on the provision of non audit work, monitoring action on issues identified by the auditor, ensuring an effective relationship between internal and external audit, advising the council on the quality of the audit service, etc.

14. **Comment:** The proposals to widen the composition of audit committees and specify their duties in legislation seem prescriptive and at odds with general proposals around localism and devolution – including recent decisions to abolish Standards Committees. Moreover, during previous discussions at the Improvement Board, members have suggested that the proposal for statutory audit committees is unnecessary since auditors would continue to be registered and monitored to ensure professional standards are maintained.

15. Scope of audit: What should the scope of audit be in future?

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16. The consultation paper outlines four potential options:

Option 1: Reduced scope more in line with companies and with no assessment of value for money. The auditor would:

- Give an opinion on whether the financial statements give a true and fair view of the financial position
- Review and report as appropriate on other information published with the accounts

Option 2: Maintain the current scope of audit with the auditor providing

- An opinion on whether the financial statements give a true and fair view of the financial position
- A conclusion as to whether the body has arrangements in place to secure vfm based on locally defined priorities and having regard to financial resilience and regulatory propriety
- Reviewing and reporting as appropriate on other information published with the accounts

Option 3: Increase the scope and volume of audit work. The auditor would still provide an opinion on the financial statements but would also provide conclusions on

- Regularity and propriety – compliance with relevant laws, etc
- Financial resilience – about *future* sustainability of the body
- Value for money – about the *achievement* of economy, efficiency and effectiveness.

Option 4: under this option all public bodies would be required to produce and publish an annual report about their arrangements for securing vfm, and whether they have achieved economy, efficiency and effectiveness; regularity and propriety; and financial resilience. The annual report would be published – enhancing transparency. The auditor would

- Give an opinion on the financial statements
- Review the annual report
- Provide reasonable assurance on the annual report.

17. **Comment:** Option 3 which includes an assessment of “financial resilience” and value for money will be more burdensome and appears to reintroduce elements of CAA. Option 4 has some similarities with our self regulation proposals in that there is some basis on self assessment – but producing an annual report would be a new requirement.

18. The LG Group’s approach to date has been that the scope of audit should in future be more tightly focussed around the accuracy of the financial statements

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and issues of probity. This would point towards Option 1. Authorities would be free to “buy in” additional audit activity if they chose to do so.

19. **Arrangements for smaller public bodies:** Under current legislation the statutory audit requirements for smaller bodies are the same as those for larger ones - though since 2002 the Commission has ensured bodies with an income of £1m or less are subject to a “limited assurance” audit framework. The consultation paper proposes:
- 19.1 that the income and expenditure of a body should determine what level of audit or scrutiny is required and that bodies with an income of between £1,000 and £6.5m would be subject to an independent “examination” (similar to that followed in the charities sector) rather than a full audit.
- 19.2 that the appointment process should also be proportionate and either:
- 19.2.1 the appropriate county or unitary authority appoint the independent examiner, or;
- 19.2.2 the appointment be made by the small body itself, but with the involvement of an audit committee – for example working jointly with other smaller bodies to create a joint committee or joining with a larger local public body and utilising their audit committee.
20. **Public Interest Reports:** It is proposed that the duty on an auditor to consider whether to make a report in the public interest should be retained. Public interest reports – the consultation paper says – are a key part of the current audit system and provide a vehicle through which the public are made aware of issues of significant interest to them. Of the 131 public interest reports issued since 2002 only 13 have related to principal local authorities. The costs of public interest reports would fall on the audited body.
21. **Auditor Liability:** The Audit Commission currently indemnifies auditors for costs they incur if they are engaged in litigation. The consultation paper suggests that in future it would be possible for auditors and audited bodies to deal with auditor liability as part of their contractual negotiations – within the context of a legislative framework. Without a liability agreement audit firms, the consultation paper says, may increase their fees to match the increased risk.
22. **A competitive market:** During discussions at the LG Group Improvement Board some members have stressed that the new arrangements must deliver a competitive market for audit and that this is more likely to be achieved:
- 22.1 Where the Audit Commission’s in-house audit practice can be successfully transferred to the private sector in a way that enables it to retain current expertise and act as a competitor to the major audit firms

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22.2 Where the future arrangements for audit are not so burdensome and restrictive that they dissuade smaller firms from entering the market.

23. **Links to sector self regulation and improvement**: sharing intelligence in order to manage the risk of underperformance is a key part of sector self regulation proposals. It would be helpful if auditors were under an explicit expectation to share intelligence, where appropriate, with the LG Group so that sector support could be offered on proactive basis.

Timetable and Membership of the Commission

24. Although the original intention was to have new arrangements in place for auditing England's local public bodies by 2012/13, this is subject to parliamentary timetables. The current consultation exercise will be followed by consultation on draft legislation which means that the parliamentary processes might not begin until 2012.
25. As a consequence the new audit arrangements would probably not commence until 2013/14 financial year at the earliest. This is later than originally intended and may have implications for current commissioners.

Conclusions and next steps

26. A full response will be developed in the light of members' views and comments from the sector and submitted to Lead Members for approval.

Financial Implications

27. There are no additional financial implications arising from this report

Appendix A

DCLG Consultation “Future of local public audit” - list of consultation questions

1. Have we identified the correct design principles? If not what other principles should be considered? Do the proposals in this document meet these design principles?
2. Do you agree that the audit probation trusts should fall within the Comptroller and Auditor General’s regime?
3. Do you think that the National Audit Office would be best placed to produce the Code of audit practice and the supporting guidance?
4. Do you agree that we should replicate the system for approving and controlling statutory auditors under the Companies Act 2006 for statutory local public auditors?
5. Who should be responsible for maintaining and reviewing the register of statutory local public auditors?
6. How can we ensure that the right balance is struck between requiring audit firms eligible for statutory local public audit to have the right level of experience, while allowing new firms to enter the market?
7. What additional criteria are required to ensure that auditors have the necessary experience to be able to undertake a robust audit of a local public body, without restricting the market?
8. What should constitute a public interest entity (i.e. a body for which audits are directly monitored by the overall regulator) for the purposes of local audit regulation? How should these be defined?
9. There is an argument that by their very nature all local public bodies could be categorised as ‘public interest entities.’ Does the overall regulator need to undertake any additional regulation or monitoring of these bodies? If so, should these bodies be categorised by the key services they perform, or by their income or expenditure? If the latter, what should the threshold be?
10. What should the role of the regulator be in relation to any local bodies treated in a manner similar to public interest entities?

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11. Do you think the arrangements we set out are sufficiently flexible to allow councils to cooperate and jointly appoint auditors? If not, how would you make the appointment process more flexible, whilst ensuring independence?
12. Do you think we have identified the correct criteria to ensure the quality of independent members? If not, what criteria would you suggest?
13. How do we balance the requirements for independence with the need for skills and experience of independent members? Is it necessary for independent members to have financial expertise?
14. Do you think that sourcing suitable independent members will be difficult? Will remuneration be necessary and, if so, at what level?
15. Do you think that our proposals for audit committees provide the necessary safeguards to ensure the independence of the auditor appointment? If so, which of the options described in paragraph 3.9 seems most appropriate and proportionate? If not, how would you ensure independence while also ensuring a decentralised approach?
16. Which option do you consider would strike the best balance between a localist approach and a robust role for the audit committee in ensuring independence of the auditor?
17. Are these appropriate roles and responsibilities for the Audit Committee? To what extent should the role be specified in legislation?
18. Should the process for the appointment of an auditor be set out in a statutory code of practice or guidance? If the latter, who should produce and maintain this?
19. Is this a proportionate approach to public involvement in the selection and work of auditors?
20. How can this process be adapted for bodies without elected members?
21. Which option do you consider provides a sufficient safeguard to ensure that local public bodies appoint an auditor? How would you ensure that the audited body fulfils its duty?
22. Should local public bodies be under a duty to inform a body when they have appointed an auditor, or only if they have failed to appoint an auditor by the required date?
23. If notification of auditor appointment is required, which body should be notified of the auditor appointment/failure to appoint an auditor?

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24. Should any firm's term of appointment be limited to a maximum of two consecutive five-year periods?
25. Do the ethical standards provide sufficient safeguards for the rotation of the engagement lead and the audit team for local public bodies? If not, what additional safeguards are required?
26. Do the proposals regarding the reappointment of an audit firm strike the right balance between allowing the auditor and audited body to build a relationship based on trust whilst ensuring the correct degree of independence?
27. Do you think this proposed process provides sufficient safeguard to ensure that auditors are not removed, or resign, without serious consideration, and to maintain independence and audit quality? If not, what additional safeguards should be in place?
28. Do you think the new framework should put in place similar provision as that in place in the Companies sector, to prevent auditors from seeking to limit their liability in an unreasonable way?
29. Which option would provide the best balance between costs for local public bodies, a robust assessment of value for money for the local taxpayer and provides sufficient assurance and transparency to the electorate? Are there other options?
30. Do you think local public bodies should be required to set out their performance and plans in an annual report? If so, why?
31. Would an annual report be a useful basis for reporting on financial resilience, regularity and propriety, as well as value for money, provided by local public bodies?
32. Should the assurance provided by the auditor on the annual report be 'limited' or 'reasonable'?
33. What guidance would be required for local public bodies to produce an annual report? Who should produce and maintain the guidance?
34. Do these safeguards also allow the auditor to carry out a public interest report without his independence or the quality of the public interest report being compromised?
35. Do you agree that auditors appointed to a local public body should also be able to provide additional audit-related or other services to that body?

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36. Have we identified the correct balance between safeguarding auditor independence and increasing competition? If not, what safeguards do you think would be appropriate?
37. Do you agree that it would be sensible for the auditor and the audit committee of the local public body to be designated prescribed persons under the Public Interest Disclosure Act? If not, who do you think would be best placed to undertake this role?
38. Do you agree that we should modernise the right to object to the accounts? If not, why?
39. Is the process set out above the most effective way for modernising the procedures for objections to accounts? If not, what system would you introduce?
40. Do you think it is sensible for auditors to be brought within the remit of the Freedom of Information Act to the extent of their functions as public office holders? If not, why?
41. What will be the impact on (i) the auditor/audited body relationship, and (ii) audit fees by bringing auditors within the remit of the Freedom of Information Act (to the extent of their functions as public office holders only)?
42. Which option provides the most proportionate approach for smaller bodies? What could happen to the fees for smaller bodies under our proposals?
43. Do you think the county or unitary authority should have the role of commissioner for the independent examiners for smaller bodies in their areas? Should this be the section 151 officer, or the full council having regard to advice provided by the audit committee? What additional costs could this mean for county or unitary authorities?
44. What guidance would be required to enable county/unitary authorities to:
- a.) Appoint independent examiners for the smaller bodies in their areas?
 - b.) Outline the annual return requirements for independent examiners?
- Who should produce and maintain this guidance?
45. Would option 2 ensure that smaller bodies appoint an external examiner, whilst maintaining independence in the appointment?
46. Are there other options given the need to ensure independence in the appointment process? How would this work where the smaller body, e.g. a port health authority, straddles more than one county/unitary authority?
47. Is the four-level approach for the scope of the examination too complex? If so, how would you simplify it? Should the threshold for smaller bodies be not more

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than £6.5m or £500,000? Are there other ways of dealing with small bodies, e.g. a narrower scope of audit?

48. Does this provide a proportionate, but appropriate method for addressing issues that give cause for concern in the independent examination of smaller bodies?
How would this work where the county council is not the precepting authority?
49. Is the process set out above the most appropriate way to deal with issues raised in relation to accounts for smaller bodies? If not, what system would you propose?
50. Does this provide a proportionate but appropriate system of regulation for smaller bodies? If not, how should the audit for this market be regulated?

Appendix B

Outline of key points of LG Group response

- Future arrangements for the Audit Commission's activities need to be set within the context of the Coalition Government's approach to transparency and stronger local, rather than national, accountability.
- External audit makes an important contribution to the stewardship of public resources and the corporate governance of public services, but the current arrangements can be improved.
- Local people and communities should be the primary audience for audit and a simpler and more easily understandable framework for published accounts is required.
- We welcome the proposal that councils should appoint their auditors.
- The new arrangements must deliver a competitive market. This is more likely where the Commission's in-house function can be successfully transferred to the private sector and where future arrangements do not dissuade smaller audit firms from entering the market
- We fully acknowledge the need for appropriate safeguards to preserve the independence of audit and ensure public trust in the process and outcomes is not jeopardised. But at the same time we are concerned that the new approach to audit does not become over regulated and prescribed through Government guidance
- Audit Committees - This proposal is both excessive and unnecessary. It is reminiscent of the standards committees which the government recently recognised were overly bureaucratic and runs contrary to the Government's agenda around devolution and localism. Moreover there will still be a regulatory framework including the registration of auditors and monitoring of the quality of audits.
- Procurement: There needs to be sufficient flexibility in the arrangements for procuring audit to enable a number of organisations to work together to jointly procure audit across a local area.
- Scope of Audit: The scope of audit should in future be more tightly focussed around the accuracy of the financial statements and issues of probity (that the authority's financial activities are materially free from fraud and corruption).

Taking the Lead: self regulation and improvement in local government

Purpose of report

For discussion and direction.

Summary

This report updates the Board on progress since the last meeting; invites members' views on the development of LG Inform (about which there will be a full presentation) and the next steps on the Single Data List.

Recommendations

That the Board:

1. Offer guidance on the development of LG Inform
2. Confirm the key messages about the next phase of work on the Single Data List, attached at **Appendix A**.

Action

Officers to pursue the development of LG Inform in the light of members' views and promote to Departmental officials the suggested key messages to guide the next phase of work on the Single Data List.

Contact officers:

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Item 2

Taking the Lead: self regulation and improvement in local government

Background

1. Following publication of “Taking the Lead” the Board agreed at its last meeting that the next steps would be to:
 - 1.1 Work with the sector to develop and deliver the key tools that underpin the approach and encourage wide take up in the sector;
 - 1.2 Monitor take up of the approach and tools and evaluate progress;
 - 1.3 Continue to lobby Government to reduce the burden of data reporting to Government and the Inspectorates;
 - 1.4 Influence the future arrangements for audit in a way that supports the Group’s approach to self regulation and improvement.
2. This report updates the Board about progress and invites members’ views on the development of LG Inform and the next stages of the work on the Single Data List. There is a separate item on the agenda that deals with the future of local public audit.

Developing and promoting the tools

3. Following its publication during February, “Taking the Lead” was circulated widely within the sector and sent to selected parliamentarians, Departmental officials and stakeholders. The proposals also featured as a key part of the Improvement and Innovation Conference on 22 March.
4. Further media and promotional work is planned including:
 - 4.1 Promoting the 5 free days member peer support to councils that change political control as a result of the May elections – with letters to Council Leaders and Heads of Democratic Services and a feature in **first** in May
 - 4.2 Promotional work around the launch of LG Inform towards the end of June/early July
 - 4.3 A high profile within the LG Group Annual Conference at the end of June including a specific “Taking the Lead” workshop for Leaders and Chief Executives
 - 4.4 A series of free events around the country in July to promote the LG Group’s integrated offer around Self regulation, Knowledge Hub and LG Inform, and Productivity. These events will be aimed at senior members and directors – with a further series of events aimed specifically at Leaders and Chief Executives in the Autumn.

Item 2

Local Government Group Inform (LG Inform):

5. When responding to and commenting on the draft “Taking the Lead” proposals, there was a clear demand amongst council members and officers to be able to compare performance with other councils and areas.
6. LG Inform responds to this demand. It is an online service allowing councils to access key data that is useful to them and, where they choose, to compare data at both high level and more detailed, service-specific levels, to help build the evidence needed to make informed decisions, reduce costs and improve services. It involves working with councils to agree a core set of metrics around cost efficiency/productivity, outcome and achievement and citizen satisfaction that will be available for councils to collect, publish and use for comparative purposes.
7. The first stage of the LG Inform service will be operating from end June/early July. In Autumn 2011, LG Inform will move to the new LG Group Knowledge Hub. This will enhance the service by offering wider interactive services: such as the ability to create virtual groups bringing together interested people in councils around particular topics or problems; and quick, easy access to relevant resources; or forums to share analysis, raise issues and offer mutual learning between councils.
8. There will be a full presentation explaining how LG Inform is developing and inviting members to offer guidance on next steps and in particular how it can be shaped to be of greatest benefit to Council Leaders and senior members.

Single Data List

9. Following publication and consultation on a provisional list, DCLG published the final list of Departments' data requirements for 2011-12 on Thursday 14 April. This provides a single, comprehensive list of the data that central government needs from local authorities. It comprises a total of 142 different data collections. A copy is available here
<http://www.communities.gov.uk/localgovernment/decentralisation/tacklingburdens/databurdens/>
10. Everything that local authorities should expect to provide to central departments in 2011-12 is on the list. Councils will not have to provide anything that is not on the list unless extra funding is provided.
11. The finalised list was not as greatly reduced as either we or the sector had hoped, given the Secretary of State's commitment in October. Given the tight timescale, Departments have been considering the “quick wins” identified by the

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LGA/Challenge Group as the first priority for removal or review, along with all the other comments received on those items.

12. However there is a commitment to continue the process of reducing and reviewing the list. When publishing the list Eric Pickles MP Secretary of State for Communities and Local Government said

“With council spending power coming down this year it is right that we reduce the time they spend working to Whitehall, which is why we’re committed to shrinking the list even further”.

13. DCLG will be continuing to work with Departments to review and reduce the list of data collections over the next few months with a view to publishing a final list for 2012/2013 in the Autumn. This will include data collected by bodies that are part of government but not ministerial departments – i.e. 'arm's length bodies' or 'independent public bodies' e.g. the inspectorates. A draft list of their collections was published on the DCLG website for consultation on Thursday 14 April.
<http://www.communities.gov.uk/localgovernment/decentralisation/tacklingburdens/nextstepslist/> This currently amounts to an additional 43 data collections.
14. In terms of securing a reduction in data burdens across Government Eric Pickles MP agreed with the LG Group proposal for a more fundamental discussion about the implications of the localism and transparency agenda for what it is appropriate to report nationally and locally. DCLG facilitated a discussion between Departmental Director Generals and Chief Executives aimed at developing and agreeing a set of general principles which Departments would apply when reviewing their data requirements over the next few months. The key sector messages during the discussions are **attached at Appendix A**, which members are invited to confirm.
15. And in terms of process, CLG have established a cross Government/sector Task and Finish Group drawing together representatives from key Departments and from the sector to ensure a coordinated approach across Government. (Somerset CC, Harrow and Barnsley are represented on this Group). Some individual departments (DH and DfE) have already initiated “zero based” reviews of their own data collections. The LG Group will continue to work with councils and the sector-owned Challenge Group to provide a strong sector input to this exercise.

Adult Social Care Adult Social Care Outcomes Framework

16. Following consultation, Department of Health has published a new outcomes framework for adult social care. The framework involves 13 high level outcomes across 4 domains that are intended to set a strategic national direction which local organisations can use in accordance with their own local priorities.

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“.....the Framework is not a national performance management tool. Government will not seek to set targets or manage the performance of councils in relation to any of the measures in the framework. Performance management, where it continues, will be a local responsibility for councils to determine, in partnership with other organisations and the people they serve”. (para 1.14)

17. In terms of strengthening local accountability the framework proposes – in addition to the publication of outcome data - a new scheme of “local accounts” (or self assessment). These are intended as a means by which councils can report back to citizens and consumers on performance in adult social care and a practical expression of the wider sector self regulatory proposals. In addition Department of Health has also initiated a zero based review of data demands on local government – which will feed into the single data list.

Children’s services

18. Although Government has announced its intention to abolish Ofsted’s annual rating of councils’ children’s services this will require legislative change. In the meantime Ofsted remains under a statutory duty to annually assess the quality of children’s services for each council – and it has recently published the assessment framework for 2011.
19. The overall assessment continues to be derived from performance in three broad “blocks”. Performance in Block A (findings from regular and on-going inspection of services, settings and institutions) and Block B (findings from safeguarding and looked after children services inspections, children in need, evaluations of serious case reviews, etc) have the most impact on the overall performance assessment. Performance in Block C (impact indicators and other published data) is used to supplement and inform Blocks A and B. For 2011 changes have been made to Block C to reflect the abolition of the National Indicator Set and the introduction of new impact indicators through the Departmental Business Planning process.
20. Key dates for 2011 are
- 23 September: draft assessment letters sent to councils
 - 17 October: final date for submission of appeals to Ofsted
 - 8 November: publication of children’s services assessment.

Conclusion and next steps

21. Officers are continuing to deliver “Taking the Lead” along the lines agreed at the last meeting (see para 1, above) and the Board will be updated regularly on progress.

Financial Implications

22. There are no additional financial implications arising from this report.

Appendix A

Key sector messages about the next phase of Government Departments' work to review of data requirements of local government.

The Single Data List needs to reflect both the transition to a new set of accountability arrangements that places much greater emphasis on local accountability and to acknowledge that councils simply no longer have the capacity to respond to the current level of Government data demands.

Data returns are capable of being analysed in three broad categories of **purpose**

- supporting international obligations and departmental accountability to Parliament – which we accept is legitimate
- the administration of funding or for national statistical purposes – some of which we may agree is necessary and helpful
- local accountability. We do not believe it is appropriate for Government to mandate how councils are to be held to account locally for the services they deliver. This is essentially a local matter. Through the LG Group Inform service we are working with councils to agree a core set of metrics around cost efficiency and productivity, outcome and achievement and citizen satisfaction that will be available for all councils to collect, publish and use for comparative purposes.

And in terms of the principles governing the **practicalities** around what and how Government collects data we suggest that

- There needs to be greater clarity and challenge around what is being collected, for whom and for what purpose
- Government should seek to minimise the burden through practical means such as consolidating returns, sharing data intelligently across Government departments to reduce the frequency of collections, considering the timing of requests and adopting sampling rather than universal coverage.
- The scope of the exercise should be broadened to capture how it is we understand performance in a place – including the contributions of other local public sector partners and the private sector – and then as a consequence how we can minimise the potential for overlap and duplication in terms of the data requested from different local partners
- The emphasis should be on collecting outcome data wherever possible. The Single Data list appears to signal a continuation of measuring inputs and outputs which might be of interest to Whitehall officials but would not support transparency for the public

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Finally the Government needs to put in place a clear process for dealing with **new requests** for data items which are likely to result from existing and new policy initiatives underway across Government. This process should involve some key criteria against which all requests from across Whitehall should be considered through a single robust gateway involving the sector.

And in all of this it will be important that there is a sense of shared endeavour and mutual agreement about data reporting and its place within a new approach to accountability which builds on an understanding of the data that councils already collect for their own purposes.

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DCLG consultation on data transparency

Purpose of report

For decision.

Summary

This report sets out the key issues raised by the Government's consultation on a proposed code of practice for local authorities on data transparency, and a proposed LG Group response for the Board's approval.

Recommendation

That the Board approves the response to the consultation which is summarised in the main paper and set out in full in **Annex 1**.

Action

Subject to Board's approval, officers will pursue this with officials and seek a politician led meeting with Baroness Hanham, and potentially, with Minister for the Cabinet Office, Francis Maude MP.

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DCLG consultation on data transparency

Background

1. DCLG have consulted on a proposed code of recommended practice for local government transparency.
2. The context is government's thrust towards public sector transparency as a means to foster both improved accountability to citizens, and wider scrutiny of public sector activity and expenditure. Behind this lies a philosophy that transparency and making public sector data and information openly available will also contribute to:
 - 2.1 Enabling 'Big Society';
 - 2.2 Fostering innovation in services to citizens that rely on information; and
 - 2.3 Stimulating economic activity given the value of information.
3. To further this, Government is:
 - 3.1 Extending coverage of existing Freedom of Information legislation through the Ministry of Justice;
 - 3.2 Promulgating a Protection of Freedoms Bill through the Home Office: this includes an extension to Freedom of Information legislation to effectively create a general legal presumption in favour of openness in all public sector data and information, with accompanying public sector guidance; and
 - 3.3 Proposing this specific local government code through DCLG: it will have legal – or quasi legal - status under the Local Government Act 1980.

The issues

4. This proposal creates more difficulties than benefits because:
 - 4.1 There is no clear policy framework behind increasingly piecemeal legislation;
 - 4.2 The proposed code and other proposed legislation in this area, add to already confused legislation around public sector data and transparency;
 - 4.3 It is 'anti localist' and inconsistent with DCLG policies;

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- 4.4 The proposal is too prescriptive: there are better alternatives; and
- 4.5 It would create legal or quasi legal requirements that are more prescriptive and burdensome for local government than those required of the public services more widely: citizens should expect an equal measure of transparency in the activities of Whitehall and in other local public services.

Legal Inconsistency

- 5. There are existing inconsistencies in national (and EU) legislation around data and transparency; for example, access to data under the Freedom of Information legislation and for inspection under the Environmental Information Regulation is generally free, but other legislation (e.g. the EU INSPIRE regulation and therefore national legislation) allows charging for online access and reuse of data when provided in large quantities or when frequently requested.
- 6. Such questions are not simply matters of detail or solely problematic for local government. Policy is unclear where public sector data and information should be open and free for use, and re-use, or where public sector intellectual property rights are a source of return for the taxpayer, or at least, where offering data or information can be subject to recovering the costs of providing it.
- 7. It is therefore undesirable to have more piecemeal legislation. Rather, what is needed is agreement to the principles and objectives for public sector data policy behind a general presumption in favour of transparency which we would support. Any new legislation on this basis should be accompanied by a commitment to consolidate and rationalize the current and confusing legislative situation.

The Implications for localism

- 8. If the legal basis for transparency is to be extended, it should be enacted through a fit for purpose and workable legal presumption across the public sector that public sector data is open, subject to caveats about personal data and any necessary provision for confidentiality.
- 9. Beyond that, it should be for local authorities to understand what data they hold, what communities want and release it in a way that allows others to use and benefit from it. In doing this, it is important that public sector presentation of data is helpful and accessible to citizens directly: it is unrealistic to assume that all citizen needs will be met through armchair auditors or similar.

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10. Detailed legislation or statutory guidance is not desirable. Instead, we propose that there should be a collaboration between local government, the data 'developer community', data 'customers' and government to determine how the Local Government Group can help local authorities and others through practical help. This has inherent benefits in being flexible and responsive. The Local Government Group organised collaboration to produce and agree practitioner help in publishing spending data, contracts and salaries as an example of how this can work, and were warmly received.
11. This approach is also consistent with DCLG Minister Greg Clark MP's announcement on 7 March 2011 that the Government is to review statutory duties placed on local authorities by central government to remove red tape and regulation: it avoids the proposed code of practice adding further control from the centre.

Technical Challenges

12. The proposed code is also problematic in relation to some of the more technical aspects of open data and transparency where a more flexible resource of help and support is much more appropriate than a legalistic approach to practicalities.
13. In some cases the draft code is unclear or urges technical approaches that are little understood or are at a research and development stage. The aspiration to move realistically towards what is known as 'linked data standards' which is the most flexible way of presenting data is welcome, but to move in this direction will take time and development, and will need to avoid being unduly burdensome. It is not therefore appropriate to a code with a degree of statutory backing, not least because it is clear that many of our member councils are worried about the resource implications of going down this route.
14. What is required is a collaborative approach that generates enthusiasm not a culture of compliance with rules.

Conclusion and next steps

15. There is no clear rationale for a specific local government code. Subject to Improvement Board approval, we propose to submit the response set out in **Annex 1**. At official level, we are in discussion with DCLG, Cabinet Office and other relevant departments, and are seeking a politician led meeting Baroness Hanham and potentially, Minister for the Cabinet Office, Francis Maude MP.

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Financial Implications

16. There are no immediate financial implications for the Group. However, as noted above, a prescriptive code is potentially burdensome on local government and has potentially significant resource implications if enacted.

Draft

**Code of Recommended Practice for Local Authorities on data
transparency**

Local Government Group Response to the DCLG consultation

Overview

1. Local government is committed to the philosophy and practice of transparency both as means to improve accountability to local people, and to enrich local democracy by better informing and involving citizens in shaping their localities and services.
2. This commitment is reflected in the overwhelming sector response to the Secretary of State's request that council spending data over £500 be published. It is also demonstrated through a growing number of councils embracing the challenges of the open data agenda more widely, with councils such as Lichfield and Redbridge leading the way for public sector transparency.
3. However, we are concerned about the proposed code of recommended practice on the basis that giving it some force of law through the 1980 Local Government Act is likely to create more difficulties than benefits. These revolve around:
 - This proposal adding to already confused legislation (or proposed legislation) and policy around public sector data and transparency, not least the proposed Protection of Freedoms Bill extension of Freedom of Information legislation to make data publically available;
 - The implications for localism; and
 - Technical issues where legislation will create difficulties and where alternative approaches will deliver a better result.
4. Underpinning this, we believe that it is inconsistent and wrong to create legal or quasi legal codes for transparency and open data that are more prescriptive and detailed for local government than those required of the public services more widely. Citizens should be able to expect an equal measure of transparency in the activities of Whitehall and in other local public services.

Legislative and Policy Clarity

5. Government is proposing to:

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- Extend coverage of existing Freedom of Information legislation through the Ministry of Justice;
- The Home Office is promulgating a Protection of Freedoms Bill that will include extending the scope of Freedom of Information legislation that effectively introduces a general legal presumption in favour of openness in all public sector data and information and, we understand, a proposal for guidance to the whole of the public sector; and
- We have this proposed code through DCLG specifically for local government.

6. The situation is further complicated by existing inconsistencies in national (and EU) legislation around data and transparency that are not being addressed. For example, access to data under the Freedom of Information legislation and for inspection under the Environmental Information Regulation is generally free, but other legislation (e.g. the EU INSPIRE regulation) allows charging for online access and reuse of data when provided in large quantities or when frequently requested.

7. Such questions are not simply matters of detail or solely problematic for local government. Your introduction to the consultation uses terminology such as 'transparency through open and reusable data'. Policy and legislation needs to be embedded in clear and agreed principles that establish the extent to which transparency with free and open data is the priority, and therefore bring clarity to the currently confused situation, exemplified by:

- The Open Government License Framework widely promoting open and free data for reuse, yet public sector intellectual property rights in public sector data are a source of return for the taxpayer; and
- The position of Ordnance Survey as a trading fund. Much local government data (possibly up to 80%), includes a reference to a location plotted on an Ordnance Survey map. Ordnance Survey licensing of third party use of that data mainly prohibits free reuse. This is not theoretical because it is impacting on current policy to identify, map, and make openly available, information on public sector assets.

8. It is therefore undesirable to have more piecemeal legislation. Rather, what is needed is agreement to the principles and objectives for public sector data policy behind a general presumption in favour of transparency which we would support. This should underpin a more coherent approach to legislation. We understand that there is growing recognition of the need for this in Cabinet Office, and the Local Public Data Panel has also highlighted the problem. So, if legislation is to extend the commitment to transparency, then it should be accompanied by a commitment to consolidate and rationalize the current and confusing legislative situation.

The Implications for localism

9. If the legal basis for transparency is to extend requirements beyond current Freedom of Information legislation, we believe that this should be enacted through a fit for purpose and workable legal presumption across the public sector that public sector data is open, subject to caveats about personal data and any necessary provision for confidentiality.

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10. Beyond that, we broadly agree with the thrust of paragraph 8 of the draft code which states that: 'local authorities should understand what data they hold, what communities want and release it in a way that allows others to present it in new ways that make its meaning more apparent'. We would add, that in doing this, it is also important that public sector presentation of data is likewise helpful and accessible to citizens directly as it is unrealistic to assume that all citizen needs will be met through armchair auditors or similar.

11. This challenges the need for detailed legislation or statutory guidance. For example, the jury is out on the extent to which the 'www.data.gov' model is genuinely helpful for most citizens as opposed to the data enthusiast or researcher (ref. Paragraph 11 of the draft code). This is important because the original driver for publishing raw data formats was so that the external market could create useful applications where councils or other public sector bodies don't have capacity or skills to create them. So following this route alone will not generate effective local scrutiny or benefit the citizen: as the draft suggests, this is best done in response to local circumstances and needs.

12. We therefore propose that instead of a local government code of practice backed by statutory or quasi statutory force, there should be a collaboration between local government, citizens, the data 'developer community', and government to determine how we can help local authorities and others working locally through practical help. This has inherent benefits in being flexible and responsive. The Local Public Data Panel is an example of this collaborative working: the practitioner guides produced jointly for publishing spending data, contracts and salaries were warmly received.

13. Our proposed approach is also consistent with Greg Clark's announcement on 7 March 2011 that the Government is to review of statutory duties placed on local authorities by central government to remove red tape and regulation: it avoids the proposed code of practice adding further control from the centre.

Technical Challenges

14. The proposed code is also problematic in relation to some of the more technical aspects of open data and transparency where a more flexible resource of help and support is much more appropriate. A legalistic approach to the practicalities described below is not the best solution.

Expenditure over £ 500

15. This is already published by many authorities in the required format and we would expect pretty much every council to move to this over the coming months. The challenge is to enable wider comparability through adopting affordable and workable standards, for example by working in finance terms with CIPFA. This is not the role of statute.

Grants and payments to voluntary community and social groups

16. We do not think that a code is the right way to achieve this: it is more about adopting the approach to standards identified in the previous paragraph to allow effective identification, and there are technical complexities where services that are outsourced may involve the voluntary sector.

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Senior salaries

17. Publication of local government senior salaries should be in line with existing legislation and not arbitrarily linked to civil servant pay-bands which have no meaning in local government. We are surprised to see this link resurrected after extensive discussion with DCLG about this and agreement to a practitioner guide that offered a more sensible and workable approach.

18. The reference point is the Accounts and Audit (Amendment No. 2) (England) Regulations 2009, SI 2009/3322. This defines senior as anyone earning over £150,000 per year or anyone earning over £50,000 per year who holds a “senior” position (what this means is defined in more detail in the legislation). Working on this basis would be far more sensible and would also allow comparisons across authorities.

19. The draft code suggests that individuals have the option of refusing consent for their name to be published. Information Commissioner advice is that consent is not required: individuals involved should be told about the disclosure. Clearly again there should be consistency across the public sector.

Copies of contracts and tenders

20. This has been the subject of extensive consultation and liaison with both DCLG officials and local government. We are close to finalizing the details of that subject to final sign off, and, if a code is to be pursued, it should cross refer to the practitioner guidance that is the subject of these negotiations. The result of that discussion aims to maximize benefits and clarity for citizens and businesses whilst offering councils a workable way to do so.

Extending transparency to policies, performance, audits and key indicators on authorities fiscal and financial position / data of democratic running for the local authorities, including the constitution, election results, committee minutes, decisions-making processes and records of decisions

21. Much of this is already in the public realm and subject to The Freedom of Information Act which requires that local authorities publish a publication scheme that describes information that is routinely published, including data held by the authority. Therefore, for this purpose, an inventory as required under paragraph 10 would duplicate that requirement without good reason.

22. We therefore question whether specifying an inventory by statute is the most helpful or constructive way of developing beyond the general presumption that public data is open. Rather we suggest a positive approach that fosters the sort of approach exemplified in pioneering work by Redbridge through their DataShare project.

Defining Open and Publication Requirements

23. We are unclear what is meant by the term “open” in this context: paragraph 13 of the draft code refers to license that allows open reuse. Do you mean open as in using open

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standards, or do you mean using open standards and making the data available for free. Our earlier point about data policy and legislative inconsistency is important here

24. The first three steps of the recommended five step journey to a fully open data described in paragraph 14 are achievable for most local authorities. However, final two are questionable: non-proprietary formats should not be solely linked to comma separated files, but should include other open formats such as Xml. The use of URIs is still little understood and only a small proportion of data have a URI associated with them, let alone, link them to external resources.

25. While an ambition to move towards linked data is desirable as an aspiration, linked data remains at research and development stage: considerable investment would be needed to build a linked data infrastructure. For example, there is a need for a spine of common references for URIs that can be consistently used. We are interested in the future of this for local government, however such an experimental approach has no place in a code that has some statutory force behind it.

26. The advice in paragraph 18 of the code on publishing 'un-cleaned' data is understandable, but again shouldn't be in a statutory code. We all appreciate that timely data can be more helpful than perfect data after the event; however, this must be a local judgment because equally, errors can lead to misconceptions, poor decisions and possibly even litigation.

Anti Fraud Measures (Appendix)

27. The advice on anti-fraud measures to raise awareness and help councils to safeguard against fraudulent claims is generally helpful but is surely more appropriate to alternative routes for promulgation of what is essentially advice. And, as part of that advice, we continue to strongly recommend that internal supplier IDs are not released if they are used as the key identifier of suppliers within an authority.

Burdens

28. Whilst embracing transparency, it is clear that many of our member councils are worried about the resource implications of going down this route. We do not believe that this should prevent commitment to the journey, but we strongly urge that the more advanced elements of this transition should not be unrealistically enshrined in legislation. The consequences of that will benefit no-one, least of all citizens.

29. What is required is a collaborative approach that generates enthusiasm not a culture of compliance with rules. We therefore suggest that together, we bring interested parties round the table at senior level to consider the issues raised in our response, and to work through how best to get where we all want to be.

**Local Government Group
May 2011**

Local Productivity Programme

Purpose of report

For discussion

Summary

This report updates members of the Improvement Programme Board with the progress made on the Local Productivity Programme.

Recommendations

The Board is asked to:

1. note the outcomes from the recent workshop held to discuss productivity gains in the area of Children, Adults and Families and note the plans and preparations for the Futures Summit
2. agree the next steps for the LG Group with Local Partnerships and others to roll out the next phase of the Capital & Assets Programme (paragraph 19).

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Local Productivity Programme – Update

Background

1. Phase one of the Local Productivity Programme has now drawn to a close and work is underway on establishing the shape and focus of phase two. The initial nine phase one workstreams have been consolidated down to three ‘big win’ areas:
 - 1.1 Children, Adults and Families;
 - 1.2 Procurement, Capital and Assets; and
 - 1.3 Future Ways of Working.

Children, Adults and Families

Background

2. Services provided to children, adults and families by councils comprise a significant spend. It is estimated that in 2009/10 £14bn was spent on adult services and £6.5bn on children’s services (excluding education). These costs are expected to increase by 4 per cent per annum due to demographic and cost pressures.
3. While councils provide these services increasingly other bodies and organisations are involved, particularly for adult services. The Departments for Education and Health, and the NHS, also play a significant role in the direction and provision of these services.

Progress so far

4. A high-level workshop, facilitated by the LG Group, was held on 18 April with representatives from councils, government departments, sector groups, members from the relevant Programme Boards and one of the member champions from the phase 1 workstreams. The workshop met to identify how strong member leadership should be provided in this area, the three or four interventions the Programme should concentrate on in the coming year and how to integrate the work within the LG Group structure.
5. The attendees had wide ranging and productive discussions on the issues. It was generally agreed that there needed to be closer integration between the services provided to children, adult and families and that this should be reflected in the Group’s approach to improving productivity in this area. The ‘*Think Family*’ approach was considered a good model to follow. *Think Family* practice centres on making sure that the support provided by children’s, adults’

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and family services is co-ordinated and focused on problems affecting the whole family.

6. The attendees' discussions centred on a number of intervention strategies to improve productivity by:
 - 6.1 Reducing demand for services;
 - 6.2 Diverting people away from social care;
 - 6.3 Partnership working;
 - 6.4 Better management;
 - 6.5 Driving down costs; and
 - 6.6 Raising monies.
7. In considering these options the workshop thought it appropriate to adopt an approach that:
 - 7.1 Identifies detailed examples of tried and tested productivity opportunities within councils (both within the UK and abroad);
 - 7.2 Raises awareness of these opportunities with members and officers;
 - 7.3 Actively promotes the take-up of these productivity opportunities with councils, by providing clear route maps to adoption, tools and being explicit about the risks of non-adoption; and
 - 7.4 Considers radical new models of service delivery and how they may be implemented (Note: this is being taking forward in the future ways of working summits).
8. The attendees considered that it may be appropriate for the relevant Local Government Group Programme Boards to lead in this area or for a single Programme Board to lead because of the need to take a joined-up approach.
9. Attendees also identified the need for further workshops of this nature to explore and agree an approach in cross-cutting areas such as the relationship with health and transitions.
10. The Community Well Being Programme Board and the Children and Young People Programme Board will take the issues arising from the workshop forward.

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Future Ways of Working

Background

11. The scale of spending cuts facing local authorities is too great for efficiency savings alone to bridge the gap. New and radical ways of working are required to enable councils to be more productive. The Local Government Group is leading the way on developing future ways of working through a series of Future Summits.

Progress so far

12. The first of the Futures Summits (The Productive Council of the Future: 2021) has been arranged for 23 May 2011. We intend to bring together leading councillors, top managers from the public, private and third sectors and expert commentators to design the robust working arrangements for a productive council capable of meeting the challenges of the next five to ten years. Further summits will be held during the rest of the year.
13. A Member Design Group met in early April to select the invitation list, guide the development and shape of the summits and to explore the role that members will play during the events.
14. A report will be presented to the July Improvement Programme Board detailing the outcomes of the summit and proposals for the remaining summits.

Procurement and Capital Assets

Background

15. This aspect of the Local Productivity Programme builds on the work of the procurement and capital assets work-stream. The last meeting of the Improvement Programme Board received a presentation from Andrew Smith, Hampshire County Council Chief Executive, setting out thinking to date.
16. A key part of the work includes the Capital & Assets Programme (CAP) which the sector established with the Department for Communities & Local Government. Working with 11 Pathfinder areas (Cambridgeshire, Durham, Hackney, Hampshire, Hull, Leeds City Region, Leicester/shire, Solihull, Swindon, Wigan, Worcestershire) the programme has sought to establish that greater efficiencies and wider benefits could be obtained from local areas working together to rationalise their land & property assets, than by agencies, either central or local, working independently of each other. Local Government took the lead in forming and leading partnerships across the public sector in order to:

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- 16.1 map all public sector land & property;
 - 16.2 map customer service needs, and
 - 16.3 produce specific business cases, and wider long term (10 year) strategies to progress this work.
17. Business cases ranged from delivering cross sector customer access points, through to joint fire and police stations, to major town centre regeneration schemes. The Long Term Strategies suggest some impressive predicted outcomes:
- 17.1 c20 per cent reduction in operating footprint;
 - 17.2 10-20 per cent reduction in running costs;
 - 17.3 20 per cent plus reduction in carbon footprint; and in some cases
 - 17.4 significant capital receipt generation.
18. Cash savings potential is substantial: one of the larger Counties has estimated that its 20 per cent reduction in running costs amounts to a saving of £280m net present value (NPV) over 10 years.
19. The intention is to roll out the programme to the wider local government sector, and initial interest has already been established with two counties and a number of their districts. The LG Group are looking to provide a resource (funding, support, staff) together with Local Partnerships, other sector led support infrastructure including the NIEP and the RIEPs and some pro bono private sector technical expertise (legal, procurement, etc.). A prospectus will be issued around the time of an intended Ministerial announcement scheduled for late May/early June, which will be accompanied by a supporting media programme.

Financial Implications

20. The business plan for 2011/12 includes resources to develop the programme to support councils including providing support to the next stage of the Capital & Assets programme. Capacity to support the programme has also been built into the new LG Group structure and accompanying budgets.

Modernisation of EU public procurement rules

Purpose of report

For discussion and direction.

Summary

This report updates members on work the LG Group is beginning to undertake to influence revised EU procurement Directives expected in late 2011 or early 2012.

Recommendations

Members are asked to discuss the issues highlighted by our member authorities within the LG Group response, and consider any further issues which should be incorporated into our lobbying (paragraph 9) and agree next steps (paragraph 10).

Action

Officers to progress as appropriate.

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Modernisation of EU public procurement rules

Background

1. EU procurement rules directly govern how councils buy their supplies and services. All procurements above a certain value (normally £156,442) must follow relatively complex and lengthy EU procedures to ensure providers from across the EU get a chance to compete for councils' contracts.
2. LG Group's work on simplifying procurement rules supports the Group's 'productivity programme' which encourages local government efficiencies in the face of budget cuts.
3. The Group is beginning work with the EU and Whitehall to influence new EU public procurement legislation to be proposed in late 2011 or early 2012. The process of agreeing new rules at EU level followed by implementation into UK law will take several years.

Modernisation of EU procurement rules

4. LG Group has undertaken significant consultation on this topic:
 - 4.1 detailed feedback from 141 local authority procurement managers via a recent LG Group survey (Dec 2010)
 - 4.2 a consultation event in Brighton attended by over 50 procurement managers (Nov 2010)
 - 4.3 close engagement with the society of procurement officers (SOPO), experts from the sector, and procurement advisors from Local Partnerships and LGID.
5. The feedback shows that the legislation in its current form is too detailed and complex. Much time and resources are being spent by procurement managers to follow the rules, yet almost no contracts are finally awarded to suppliers based abroad. A more proportionate approach from the EU is required.
6. LG Group has also:
 - 6.1 produced a series of case studies outlining costs and burdens associated with EU procurement rules
 - 6.2 introduced relevant EU case law into the 'shared services' guidance recently published as part of the Group's 'productivity' work
 - 6.3 brought local authority procurement experts to Brussels to give evidence to an EU hearing (Nov 2010)

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- 6.4 had early meetings with those responsible for drafting the legislation in the European Commission, engaged with MEPs, as well as those responsible in Whitehall
 - 6.5 chaired the responsible local authority working group at EU level to ensure LGAs from across the EU are promoting common messages.
7. One way of feeding in local government thinking early into future European policy is through the EU's Committee of the Regions (CoR) – an EU advisory body for local and regional government. As several LGA politicians represent UK local government on this Committee, it is a useful body of influence. Cllr David Parsons and Cllr Dave Wilcox (LG Group European and International Programme Board Chair) are both on the CoR, and have recently secured valuable amendments on this topic. The amendments push for a more streamlined EU procurement regime and ensure that local and regional governments EU-wide call for:
- 7.1 certain services such as health and social services to remain excluded from the principal requirements of the Directive
 - 7.2 simpler procedures when awarding contracts, including greater use of negotiation between the public authority and the provider
 - 7.3 significantly higher financial thresholds before the EU rules become applicable.

LG Group response to Green Paper

8. The Group has submitted a response to an EU Green Paper consultation exercise on procurement modernisation which closed 18 April 2011 (summary in the **attached** Annex). The response was drafted in April 2011 based on feedback received. It was agreed via email by office holders of the Improvement Programme Board and European & International Programme Board. The response suggests that more coherent, consistent and above all significantly simplified EU legislation is required, in line with councils' needs to make efficiency savings.

Developing key lobbying messages

9. Members are asked to discuss the issues highlighted by our member authorities within the LG Group response, some of which are highlighted below, and consider any further issues which should be incorporated into our lobbying:
- 9.1 significant overall simplification of the regime (reformed award procedures leading to greater use of negotiation with suppliers, more flexibilities around selection and award criteria, higher thresholds)
 - 9.2 clear exclusion for public-public cooperation contracts in the new Directive which would free up councils to share services between each other without going out to tender
 - 9.3 reduction of legal uncertainties and legal challenges from failed bidders

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- 9.4 significant raising of thresholds to a level which makes cross-border competition economically viable for the supplier, and justifies the time spent on the procurement procedure by the public authority
- 9.5 criteria in public contracts relating to environmental benefits, innovation, SME promotion and social responsibilities should be the decision of national governments and individual councils. The EU should encourage but not mandate such practices. The main aim of procurement must continue to be a focus on best value.

Next steps

- 10. Members are also asked to endorse the next steps:
 - 10.1 LG Group holds early meetings with those responsible in Whitehall including CLG and the Office of Government Commerce (OGC), including links with the Efficiency and Reform Group (ERG)
 - 10.2 an MEP, civil servant, or European Commission representative is invited to address a future board meeting
 - 10.3 address EU procurement concerns through a specific workshop at the LG Group annual conference in June
 - 10.4 the Group via the Brussels Office promotes its key messages to the EU
 - 10.5 board members play an increasingly active role on these topics in negotiations with both Whitehall and the EU institutions
 - 10.6 the Group continues its work with the Committee of the Regions: the EU's advisory body on local authority issues.

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Annex – Modernisation of EU procurement rules

Summary of LG Group initial response to EU

1. This paper is the Local Government Group's response to the European Commission's initial consultation on the future modernisation of EU Public Procurement Directives 2004/18/EC and 2004/17/EC.
2. The response has been produced in collaboration with Local Government Improvement and Development (LGID) and Local Partnerships (LP): the two UK organisations who advise local authorities on procurement matters.
3. In our response we answer a selection of questions from the Green Paper particularly relevant to local government.
4. The LG Group welcomes the European Commission's initiative to review the Directives governing public procurement, recognising the need for increased efficiency and effectiveness of the public procurement system. Such aims are consistent with the pressing need to enable savings in public finances.
5. Whilst the LG Group supports the idea of a certain element of coordination at EU level as regards public procurement activities, the legislation in its current form is too detailed and complex. It is not achieving its stated aim of promoting EU-wide competition and has several other short-comings.
6. Overall the review should result in more coherent, consistent and above all **significantly simplified legislation** in line with, and not going beyond, the EU's international commitments under the WTO Government Procurement Agreement (GPA).
7. The primary objective should be that Directive 2004/18 in its future format will simply implement the EU's international obligations to ensure a basic level of fair competition in line with Treaty principles and not over-regulate or micro-manage procurement arrangements within the member states.
8. Additional provisions in the Directive beyond international commitments should be included only when absolutely essential to ensure respect of the Treaties, ECJ case law, or current practices within member states.

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9. A recent LG Group survey¹ among 141 local authority procurement managers in England and Wales together with findings from previous consultations enables us to identify aspects of Directive 2004/18 which are particularly difficult or costly to implement, while also outlining recommendations for change in the future. Evidence used in this response is based on the results of this survey.

10. Our response does not attempt to answer each of the 114 questions the Commission asks in its Green Paper but instead focuses on the issues most relevant to local authorities:

1. Cost and efficiency
2. Public-public cooperation
3. Thresholds & A/B services
4. Award procedures
5. Procurement as a policy tool
6. Service Concessions
7. Procurement expertise & access to information
8. Remedies Directive (not part of the EU's review)
9. Other issues

Cost and efficiency

11. 66% of procurement managers agree that despite benefits of increased competition, the Directive (2004/18) has brought increased procurement process costs and administrative burdens, creating a more complex procurement process overall.

12. Recommendation: EU procedural and administrative requirements, particularly detailed award procedures, must be reduced by simplifying the Directive and increasing flexibility for local authorities. The focus at EU level should be to ensure the Treaty principles of equality, transparency and non-discrimination are respected, but not going beyond that.

Public-public cooperation

13. Legal uncertainty around pooling or sharing services between public authorities is the single biggest issue. It has been identified by 64% of procurement managers as an obstacle to sound procurement practice. It hampers the efficiency drive in the public sector and adds to local authorities' legal costs.

14. Recommendation: Administrative reorganisations within the public sector and contracts between contracting authorities should be clearly excluded from the scope of the Directive in line with current practices in member states and recent Court rulings.²

Thresholds & A/B services

¹ <http://www.lga.gov.uk/lga/procurement-consultation>

² Case C480/06 *Commission v Germany* ('Hamburg' judgement) 2009.

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15. The current financial thresholds are significantly beneath levels at which cross-border competition becomes viable. The situation is therefore one where many local authority contracts are awarded following an EU procedure, but only 1% of authorities 'sometimes' actually award a contract to EU suppliers without a UK base.

16. Recommendation: The thresholds need to be raised significantly to a level which makes cross-border competition economically viable for the supplier, and justifies the time spent on the procurement procedure by the public authority. International commitments should be renegotiated if necessary.

The distinction between 'part A' and 'part B' services should remain. In particular part B services such as health and social services must remain excluded from the principal requirements of the Directive.

Award procedures

17. Procedural requirements are complex and costly for bidders and contracting authorities alike, particularly the competitive dialogue procedure. In addition, it does not appear to be used consistently across member states.

18. Recommendation: The aim should be to ensure that local authorities can negotiate draft contracts with participants in the procurement phase without undue constraint through detailed procedural requirements. The revision should consider how to reduce costs and timescales involved in all award processes by simplifying or removing award procedure requirements, and introducing a greater ability to freely negotiate contracts. This may require replacing current award procedures with a new standard negotiated procedure. Public procurement laws need to be enforced equally across member states.

Procurement as a policy tool

19. Local authorities fully support environmental and social improvement but are concerned about EU efforts to use procurement to address such policy goals via their inclusion as award criteria in public contracts.

20. Recommendation: The EU regime already allows for full consideration of these 'non-economic' policy requirements in public procurements. EU requirements to include green, social, or other policy criteria in procurements must remain voluntary to allow local authorities to focus on best-value. Member States should be encouraged to support eco-friendly and responsible procurement practices. There is also a need for guidance on how local policy priorities such as supporting local businesses and promoting local employment can be included in award criteria whilst working within the scope of the Directives and the Treaty.

Service Concessions

21. Our evidence suggests 21% of local authorities have awarded at least one contract as a service concession, often following an EU compliant competitive

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tendering procedure 'just to be sure' despite there currently being no requirement at EU level to do so.

22. Recommendation: There is no need for any new EU regulation governing service concessions. If there must be EU proposals on service concessions they should continue to exclude such arrangements from EU award procedures, and should not go beyond a basic prior advertising requirement to ensure transparency. Concessions should be considered as part of the review of Directive 2004/18 and not as a separate directive which would add further to the complex legal framework governing public procurement.

Procurement expertise & access to guidance

23. Whilst the general level of expertise seemed high among our survey respondents, we believe the level of expertise across local authorities as a whole varies significantly.

24. Regarding access to information such as guidance, 46% of procurement managers stated that while they know where to find relevant information it is often hard to access or that insufficient information is provided.

25. Recommendation: Guidance on specific areas of procurement alongside professional capacity building is needed. The EU should set up and promote web-based tools for structured knowledge sharing, training, and for the promotion of models of good practice. Initiatives such as the PROGRESS programme supporting procurement capacity building should be enhanced.

Remedies Directive (not part of EU review)

26. The rising risk of legal challenge and the perceived legal bias in favour of the supplier is leading to cautious, risk averse procurement practice, stifling innovation and reducing cashable savings. Local authorities are also facing increased legal costs to deal with actual and potential challenges at times of financial cutbacks.

27. Recommendation: the Remedies Directive must be reviewed to make clear under which circumstances local authorities can be challenged. Such a determination should not be left to varied interpretation by the courts. Under the Directive, unsuccessful bidders should require stronger grounds to challenge the legitimate award of a public contract.

Other issues

28. The full response³ deals with a range of other issues: smaller contracting authorities, collaborative purchasing/demand aggregation, SME policies, sub-threshold contracts, subcontracting, major changes to contract, favouring local suppliers, language requirements and quality standards in social services.

³ <http://www.lga.gov.uk/lga/core/page.do?pagelId=18013723>

Item 6

Community Budgets

Purpose of report

For discussion and direction.

Summary

This report updates the Board on progress with community budgets since the last meeting. The pace and political impetus has now accelerated following the interventions of the Chairman of the Board, council leaders from the 16 places and the LGA. Council leaders have now had two positive meetings with the Secretary of State for Communities and Local Government and other Ministers. Baroness Hanham is providing day-to-day political leadership.

Recommendations

Members are invited to comment on the update.

Action

Officers to reflect members' suggestions in future activity.

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Community Budgets – update

Background

1. In the Spending Review the government announced the first sixteen areas which will set up pooled budgets across different government departments (“community budgets”) for families with multiple problems, and stated its intention that this model of accountability will be adopted across the country by the end of the Spending Review period. In parallel, the Prime Minister launched a campaign to improve the lives of these families – at its heart the ambition to improve the lives of all 120,000 families with multiple needs by 2015.
2. The proposals developed by the sixteen areas will collectively improve the lives of over 10,000 families. This is consistent with meeting the Prime Minister’s ambition although there is some variation on how areas have defined the families they intend to work with. Typically places are undertaking pilot work with a number of families (except where places were already working on family intervention and are therefore further forward), following which there will be service transformation at a greater scale.
3. At the time of the last Board update, members and leaders from the 16 places were seeking stronger political engagement with Ministers. – that has been a centrepiece of activity over the last couple of months. The pace and political impetus of community budgets has accelerated following interventions by the LGA, council leaders in the 16 places and the Chairman of the Improvement Board.
4. This engagement has defined four broad and shared objectives:
 - 4.1 Supporting the sixteen areas to make a success of the first phase of community budgets delivering savings, transforming services and delivering better outcomes for families;
 - 4.2 Moving from 16 to a wider coverage of community budgets for families with complex needs – CLG are preparing a route map for discussion;
 - 4.3 Widening the coverage of the community budget framework to other policy/spend areas and bringing more coherence to the different strands of community budgets, including Local Integrated Service pilots and Total Environment;

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- 4.4 Linking community budgets to wider public sector reform including new ways of funding public services such as payment by results.
5. As the framework is extended, there is a key role for the group in sharing the learning.
 6. CLG, jointly with the LG Group, have recently conducted a stock take of progress on community budgets.
 7. The emerging messages are that places have strongly welcomed the opportunity and believe community budgets offer a framework for transforming services, making cashable savings across the public sector and delivering better services for vulnerable families.
 8. Pooling money remains important but there is a growing recognition of the different forms of pooling (for example, non-cash, aligning) and the connection to be made to new funding mechanisms. But given that some of the benefits of improving the lives of families with multiple problems will not mature in the short-term, the realisation of cash savings is complex.
 9. Places have also said that:
 - 9.1 the framework has helped strengthen local partnership working, for example helping engage the probation service. But the turbulence in the public sector landscape has naturally made that more challenging and departments could have moved faster to encourage local partners to engage;
 - 9.2 the pace needs to set locally recognising that system change is not a quick fix and there is some frustration with “process”;
 - 9.3 further “asks” will emerge organically as service transformation takes hold;
 - 9.4 some aspects of the process have been enormously helpful, for example, the close working with senior Whitehall champions;
 - 9.5 support from the LG Group, for example on the fit with other public service reform initiatives, will be crucial in preparing for a wider coverage.
 - 10 Government recognises that the wider coverage of community budgets will hinge on the strength of the local benefits and improved outcomes they enable.

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- 11 Against that background the “barrier busting” work being led by Baroness Hanham CBE, Parliamentary Under Secretary of State at DCLG, with council leaders will be very important.
- 12 Baroness Hanham’s group has met and identified four areas where work is needed: the development of community budgets into other policy/spend areas and the link to payment by results funding; data-sharing; governance taking account of police and health reforms; and assessment procedures. In the first instance, places have been asked to prepare papers on these issues.
- 13 The Board is invited to comment on the update.

Financial Implications

- 14 None although a community budgets’ programme plan reflecting our support offer to councils for 2011-12 will be developed and brought to the Board’s next meeting following the Executive’s discussions on the LG Group work programme.

Note of decisions taken and actions required

Title:	LG Group Improvement Programme Board
Date and time:	Monday 21 March 2011, 12.00pm
Venue:	The Magnum Suite, Hilton Leeds City

Attendance

Position	Councillor	Council
Chairman	David Parsons CBE	Leicestershire CC
Vice Chair	Jill Shortland	Somerset CC
Deputy Chair	Ruth Cadbury	Hounslow LB
Deputy Chair	Jeremy Webb	East Lindsey DC
Members	Peter Fleming	Sevenoaks DC
	Peter Goldsworthy	Chorley BC
	Richard Stay	Central Bedfordshire
	Dr Andrew Povey	Surrey CC
	Tony McDermott	Halton BC
	Tim Cheetham	Barnsley MBC
	Sir David Williams CBE	Richmond upon Thames LB
	Edward Lord JP	Corporation of London
Substitutes	Ken Taylor	Coventry City
Apologies	Robert Gordon	Hertfordshire CC
	Helen Holland	Bristol City

Officers: Rob Whiteman, Dennis Skinner, Helen Platts, Jo Webb, Nick Easton, Liz Hobson, Paul Johnston (all LG Group); Helen Bailey (Local Partnerships); Andrew Smith OBE (Hampshire CC); Philip Sellwood (EST).

Item	Decisions and actions	Action by
1	LG Group Business Plan 2011 / 12; Getting Closer update	
	<p>Items 1a and 1b – on the Business Plan and Budget for 2011/12 and Getting Closer respectively - were taken in conjunction.</p> <p>Officers introduced the Business Plan, which set out the Group's priorities for the upcoming year and the financial framework for the Group for 2011/12.</p> <p>Members wanted the link between the Business Plan's priorities, the budget in place to support those priorities and the proposed LG Group organisational and staffing structure to be more explicit. In particular, Members wanted assurance that the Group structure had been designed to deliver the core purposes of the Group.</p> <p>Members were also disappointed that the timetabling of meetings meant that the Board's comments could not be fed into the LG Group Executive prior to the Executive having considered and approved the Business Plan.</p> <p>On the Getting Closer programme, Members expressed concern that the graphic illustration of the new structure did not reflect the involvement of Members, and; sought reassurances that the structure would be flexible enough to cope with the changing needs of councils and that the Group would retain the ability to network / work with councils on a sub national basis.</p> <p>Members also expressed concern that the wider political membership of the Group had not been adequately involved in the formulation of the programme and the final Group structure proposals.</p> <p>Decision</p> <p><i>Members agreed that their concerns around the following issues be relayed to the Leadership Board:</i></p> <p><i>Flexibility of proposed LG Group staffing structure;</i> <i>The need for better internal and external communication of the Group changes and proposed activity;</i> <i>Adequacy of member involvement with the Getting Closer</i></p>	

*programme;
Clarity of the drivers behind the formulation of the Business
Plan;
The continued need for capacity to work sub nationally.*

Action

Officers to draft a note of the Board's comments to the Leadership Board which should be agreed with lead members.

Rob Whiteman

2 Taking the Lead: self-regulation and improvement in local government

Officers introduced the report, noting that the publication entitled "Taking the Lead: self-regulation and improvement in local government", which set out Group proposals in this area, had been circulated to the sector. It had been very well received and reflected the close involvement of Board members in shaping the document.

Members said that the new proposals tied in with the Government's greater emphasis on localism - but noted that there remained a need for inspection of adult and child safeguarding arrangements.

Members said that it would be important for the Group to think about what success would look like and to monitor how the new approach to self regulation and improvement in local government was implemented, and the take up by Councils of the key tools that underpinned the approach.

The Group would also need to be clear that it had arrangements in place to manage the risk of underperformance by being able to spot things before they went wrong and that it retained sufficient capacity to work with councils at a sub national level.

Decision

*Members noted the Group's activity in promoting the approach and offer to Councils on self-regulation and improvement;
Members agreed to receive more detailed reports on the development of the local accountability tools, peer challenge and LG Inform;*

Members agreed the proposed next steps. In addition the LG

group should monitor councils' take up of the tools.

Action

Officers to report in more detail on progress in developing the tools and to pursue the proposed next steps in light of Members' views.

Dennis Skinner

3 Local Productivity Programme

At the last meeting, Members had agreed that Phase Two of the productivity programme should focus on three "big win" areas and Members received a presentation from Andrew Smith OBE, Chief Executive of Hampshire County Council on Market Management, purchasing, capital and assets, the first major theme.

Members said that it was important that Local Partnerships be properly engaged with the Programme and that care should be taken to avoid any duplication with the existing work on procurement.

Members said that it was important that Councillors were well informed about the Programme and the financial benefits.

Decision

Members noted the steps being taken to secure strong member oversight of Phase 2 of the Programme;

Members agreed to receive further reports on the other two themes, once the initial member scoping discussions have taken place;

Members agreed the proposals for coordinating our work across the Group on the removal of barriers to productivity.

Action

Officers to take forward proposals and to report to the Board on progress of the other two themes of Phase 2 of the programme at future meetings.

**Jo Webb and
Dennis Skinner**

Officers to circulate slides of the presentation.

Paul Johnston

4 Future arrangements for audit

Members noted the report, and said that:

- 4.1 it would be important that the market was open to all organisations of whatever size and scale that wished to undertake external audit of Councils and that small audit firms were not prevented from entering the market;
- 4.2 the future arrangements for audit should be consistent with the Government's agenda on devolution and localism.

Action

Officers to take members' views into account in shaping the LGA's initial response to the publication of the forthcoming consultation of the future shape of audit.

Nick Easton

5 Community budgets update

Members noted the report which provided an update on progress towards community budgets.

6 Notes of the last meeting

Members agreed the note of the last meeting as a correct record, and noted the actions taken.

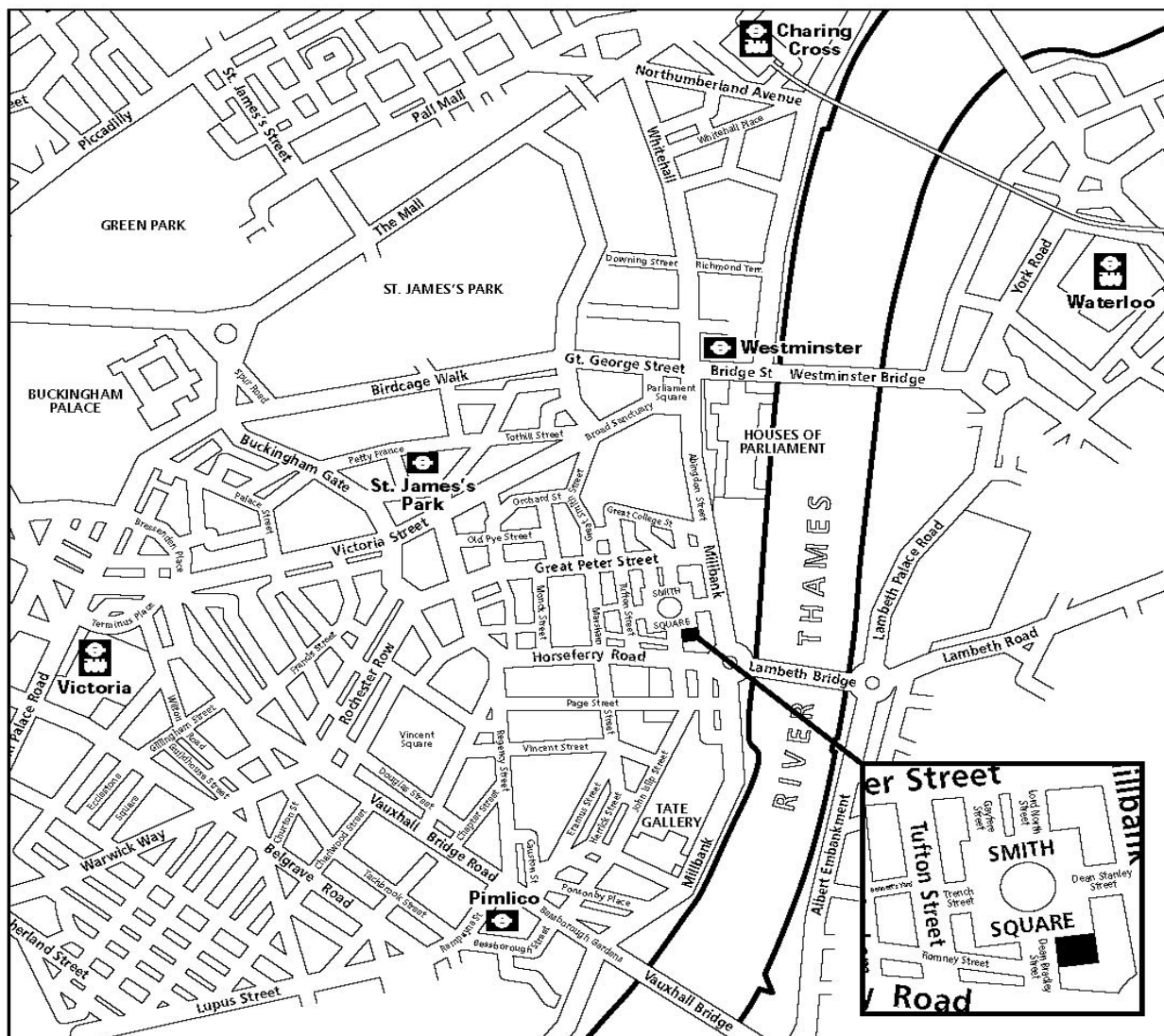
Date of next meeting: Tuesday 17 May 2011

Actions arising from last meeting

Title:	LG Group Improvement Programme Board
Date and time:	12.00, 21 March 2011
Venue:	The Magnum Suite, Hilton Leeds City

Item	Progress
1. LG Group Business Plan 2011 - 12 Action Officers to draft a note of the Board's comments to the Leadership Board which should be agreed with lead members.	Members' views were reported to the Leadership Board.
2. Taking the Lead – self-regulation and improvement in local government Action Officers to report in more detail on progress in developing the tools and to pursue the proposed next steps in light of Members' views.	A report is on the agenda for the May Board meeting, including a presentation on LG Inform.
3. Local productivity programme Action Officers to take forward proposals and to report to the Board on progress of the other two themes of Phase 2 of the programme at future meetings.	A report is on the agenda for the May Board meeting reporting on progress.
4. Future arrangements for audit Action Officers to take members' views into account in shaping the LGA's initial response to the publication of the forthcoming consultation of the future shape of audit.	Members' views shaped the initial media response. A full report is being made to the May Board meeting.

Local Government House Location Map



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Public transport

Local Government House is well served by public transport. The nearest mainline stations are;

Victoria

and **Waterloo**; the local underground stations are

St James's Park (District and Circle Lines);

Westminster (District, Circle and Jubilee Lines);

and **Pimlico** (Victoria Line), all about 10 minutes walk away. Buses **3** and **87** travel along **Millbank**,

and the **507** between Victoria and Waterloo goes close by at the end of **Dean Bradley Street**.

Bus routes - Millbank

87 Wandsworth - Aldwych **N87**

3 Crystal Palace - Brixton - Oxford Circus

Bus routes - Horseferry Road

507 Waterloo - Victoria

C10 Elephant and Castle - Pimlico - Victoria

88 Camden Town - Whitehall - Westminster-
Pimlico - Clapham Common

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Central London Congestion Charging Zone

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