

1. Note the proposed amendments to address irregularities in the London Councils Leaders' Committee Governing Agreement;
2. Note the proposed changes to the London Councils Transport and Environment Committee (LCTEC) Governing Agreement which will be considered by that Committee (as provided for in the LCTEC Agreement);

Constitutional Issues –London Councils Governing Agreements

Background

1. “London Councils” is a term that is used to refer collectively, and for convenience, to three separately constituted, but inter-related, statutory joint committees appointed by the 33 London local authorities for the joint discharge of their functions i.e.:
 - London Councils Leaders’ Committee (“Leaders’ Committee”);
 - London Councils Transport and Environment Committee (“LCTEC”); and
 - Grants Committee.
2. Leaders’ Committee has been established with the authorities’ agreement under sections 101 and 102 of the Local Government Act 1972 and section 9EB of the Local Government Act 2000 (and the relevant Regulations). LCTEC is similarly constituted. The Grants Committee has been established in accordance with the London Grants Scheme made under section 48 of the Local Government Act 1985 and which forms part of the Leaders’ Committee Governing Agreement.
3. The Leaders’ Committee Governing Agreement dated 13 December 2001 has been formally amended (varied) once in 2004¹ to give effect to a new Grants Scheme.
4. On 11 March 2014, as permitted under the Leaders’ Committee Governing Agreement, Leaders’ Committee approved the terms of reference of a new sectoral joint committee which was to be established under the London Councils governance arrangements. This sectoral committee, Pensions CIV Sectoral Joint Committee, was constituted on 17 July 2014 and currently 32 of the London local authorities are members of that sectoral joint committee having each agreed to formally delegate the exercise of their relevant functions under sections 1 and 4 of the Localism Act 2011 to that joint committee.
5. The LCTEC Governing Agreement has been formally amended (varied) five times since 2001 to delegate the exercise of additional functions to LCTEC.²

¹ Variation to Agreement dated 13 December 2001 to make a New Scheme for Grants to Voluntary Organisations, dated 1 February 2004. The Grants Scheme is made pursuant to section 48 Local Government Act 1985.

6. A number of minor variations to both Agreements were agreed by Leaders' Committee on 15 July 2014 and LCTEC on the 17 July 2014 as relevant, and a further amendment was agreed by Leaders' Committee on 2 June 2015 to take into account the abolition of the Audit Commission.
7. London Councils must operate within the delegations which have been made to the joint committees (Leaders', Grants, the Pensions CIV, and LCTEC) by the London local authorities (and as relevant for LCTEC, TfL) as set out in the Governing Agreements. There have been occasions when it has been necessary to supplement or amend these arrangements and this has been achieved by varying the terms of the Governing Agreements. If this is not done, decisions taken by London Councils without appropriate delegated authority will be *ultra vires*. Additionally, a failure to comply with the governance framework, set out in the Governing Agreements, to support the effective discharge of the functions delegated to the London Councils joint committees, could be subject to challenge.
8. Leaders' Committee can approve minor variations to the London Councils Leaders' Committee Governing Agreement (clause 15.4) by a simple majority vote (clause 7.3 and Standing Order 13.2). The proposed minor variations to address irregularities in the London Councils Leaders' Committee Governing Agreement at this time can be found in clauses 7.5 and 11.3, plus the removal of duplication of numbering and can be seen in their entirety at Appendix One.
9. Minor variations to the LCTEC Governing Agreement may be made in accordance with clause 15.1 of the LCTEC Governing Agreement which expressly provides that minor variations shall not involve any additional financial contributions other than those specifically provided for in the LCTEC Governing Agreement; and further that a minor variation shall take effect with 28 days' notice being given to all the participating local authorities and Transport for London (TfL) and no objection to the proposed variation being received during the notice period. The following minor variations to the LCTEC Governing Agreement will be presented to LCTEC on that basis:

² Refer: LCTEC Agreement dated 13 December 2001, the First Variation dated 1 May 2003, the Further Variation dated 30 November 2006, the Second Further Variation dated 8 June 2009, a delegation made pursuant to Part 3(D) on 27 October 2014, and the Third Further Variation dated 14 May 2015.

- (a) Substitution of the remaining references to ALG (i.e. the acronym for the “Association of London Government”, the old name of London Councils) with “LC” (i.e. the acronym used to refer to “London Councils”); and
- (b) the inclusion of an additional Recital 1.8 in the Agreement to refer to the joint committee’s change of name to the London Councils Transport and Environment Committee (LCTEC), as the Committee resolved on the 17 October 2006.

10. The proposed changes to the LCTEC Governing Agreement do not alter any of the joint committee’s functions or the responsibilities delegated to it.

Recommendations

11. Leaders’ Committee is asked to:

- (a) Note the proposed amendments to address irregularities in the London Councils Leaders’ Committee Governing Agreement;
- (b) Note the proposed changes to the London Councils Transport and Environment Committee (LCTEC) Governing Agreement which will be considered by that Committee (as provided for in the LCTEC Agreement);

Financial Implications for London Councils

12. There are no specific financial implications arising from the report at this time.

Legal Implications for London Councils

13. Variations to London Councils Governing Agreements must be properly made in a manner which is consistent with the terms of those Agreements. In addition to provision for formal variations to those Agreements which would in each case need to be authorised and executed individually by all the participating authorities (and additionally in the case of LCTEC, TfL); each Governing Agreement makes provision for minor variations to be made to the governance arrangements for each joint committee, albeit by different procedures in each case.

14. It is the responsibility of the relevant joint committee to determine whether a change can be considered minor. In the past, variations have been considered minor if they do not involve any additional financial contribution or changes to the delegated powers or the functions being exercised by the joint committees.

Equalities Implications for London Councils

There are no specific equalities implications for London Councils arising from this report.

Appendix One – Proposed changes to London Councils Leaders' Committee Governing Agreement

Background document: London Councils Transport and Environment Committee (LCTEC) Governing Agreement