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Please ask for: Lorraine Bush, Democratic Services Manager

17 June 2020

TO: ALL MEMBERS OF THE BOROUGH COUNCIL

MEETING OF THE COUNCIL - 25 JUNE 2020

Dear Councillor

You are invited to attend a virtual extraordinary meeting of the Council on **Thursday 25 June 2020 at 6.30pm.**

Online: Members' joining instructions will follow.

PHIL DRURY
Chief Executive

AGENDA

PART I - PRELIMINARIES

A. APOLOGIES

To receive apologies for absence.

B. DECLARATIONS OF INTEREST

To receive declarations by Members of any interests in respect of items on the agenda.

To receive declarations by Officers of any interests in respect of items on the agenda.

PART II - AGENDA ITEMS

- 1 **BOSTON BOROUGH COUNCIL AND EAST LINDSEY DISTRICT
COUNCIL STRATEGIC ALLIANCE** (Pages 1 - 64)

(Report by the Joint Strategic Officers)

Members of the public:

Please register to view this online Council meeting's webinar at:
<https://attendee.gotowebinar.com/register/2187283078018768911>

After registering you will receive a confirmation email containing joining instructions for the webinar.

Alternative Versions - Should you wish to have the agenda or report in an alternative format such as larger text, Braille or a specific language, please contact Democratic Services on direct dial (01205) 314227

The person to contact about the agenda and documents for this meeting is Lorraine Bush, Democratic Services Manager, Municipal Buildings, Boston Telephone 01205 314224 e-mail lorraine.bush@boston.gov.uk



B O S T O N B O R O U G H C O U N C I L

REPORT TO:	EXTRAORDINARY MEETING OF THE COUNCIL
DATE:	25 JUNE 2020
SUBJECT:	BOSTON BOROUGH COUNCIL AND EAST LINDSEY DISTRICT COUNCIL STRATEGIC ALLIANCE
PORTFOLIO HOLDER:	CLLR PAUL SKINNER
REPORT AUTHOR:	JOINT STRATEGIC OFFICERS
EXEMPT REPORT?	NO

SUMMARY

The purpose of this report is to set out the case for the creation of a strategic alliance between the authorities and to outline the substantial benefits that would accrue from an alliance. The report recommends the sharing of statutory officers.

The report has been amended by the insertion of recommendations (9) and (10) to reflect East Lindsey District Council's agreement to a variation of the Memorandum of Agreement and the arrangements for monitoring the implementation of the Alliance, which are intended to address the principal concerns raised by Councillors about the proposal at the Council meeting on Wednesday 10 June 2020 by:-

- (1) Providing for the creation of a scrutiny framework which will enable Boston Borough Council Members to shadow the evolution of the joint officer corps.
- (2) Providing Boston Borough Council with the option to terminate the Alliance after 12 months by giving 3 months' notice on 1st April 2021 (or 9 months after the date the Alliance becomes operative, whichever is the latter).

RECOMMENDATIONS

That East Lindsey District Council having (a) agreed at a meeting of its full Council on 10th June 2020 to enter into a Strategic Alliance with Boston Borough Council and (b) further agreed to a variation of clause 8 of the Memorandum of Agreement in the terms of recommendation 10 of this report, the full Council of Boston Borough Council resolves:-

- (1) To agree to enter into a Strategic Alliance for the purposes set out in Section [1.12] of this report, effective from 1st July 2020, for the purposes and under the terms described in this report and set out more particularly in the draft Memorandum of Agreement attached to it.

- (2) That the Strategic Alliance will be supported by a single merged workforce. This will be overseen and implemented by the Joint Chief Executive/Head of Paid Service.
- (3) That the savings of £15.4m (BBC £5.1M, ELDC £10.3M) identified in the Financial Business Case are built into the Medium Term Financial Plan.
- (4) That Robert Barlow becomes Joint Chief Executive/Head of Paid Service of East Lindsey District Council and Boston Borough Council. East Lindsey District Council shall formally employ Mr Barlow, who shall, for the purpose of facilitating the Strategic Alliance, be seconded to Boston Borough Council as Chief Executive and Head of Paid Service under Section 113 of the Local Government Act 1972, effective from 1st July 2020.
Thereafter, East Lindsey District Council will contribute 67 per cent of the cost of Mr Barlow's remuneration and Boston Borough Council will contribute 33 per cent of the same. Consultation should commence immediately.
- (5) That Michelle Sacks becomes Joint Monitoring Officer of East Lindsey District Council and Boston Borough Council. Boston Borough Council shall formally employ Ms Sacks, who shall, for the purpose of facilitating the Strategic Alliance, be seconded to East Lindsey District Council as Monitoring Officer under Section 113 of the Local Government Act 1972, effective from 1st July 2020.
Thereafter, East Lindsey District Council will contribute 67 per cent of the cost of Ms Sack's remuneration and Boston Borough Council will contribute 33 per cent of the same. Consultation should commence immediately.
- (6) That Paul Julian becomes Joint S151 Officer of East Lindsey District Council and Boston Borough Council. Boston Borough Council shall formally employ Mr Julian, who shall, for the purpose of facilitating the Strategic Alliance, be seconded to East Lindsey District Council as S151 Officer under Section 113 of the Local Government Act 1972, effective from 1st July 2020.
Thereafter, East Lindsey District Council will contribute 67 per cent of the cost of Mr Julian's remuneration and Boston Borough Council will contribute 33 per cent of the same. Consultation should commence immediately.
- (7) That Michelle Sacks be appointed as Returning Officer and Electoral Registration Officer for Boston Borough Council.
- (8) That the exit costs are charged to the reorganisation budget shown in the financial business case. The costs of the departing Statutory Officers shall be met by both authorities. East Lindsey District Council will contribute 67 per cent of the cost. Boston Borough Council will contribute 33 per cent. These exit costs will be recovered quickly from savings achieved through the operation of the Strategic Alliance and as modelled in the Financial Business Plan. Consultation with both Officers should commence immediately to start redundancy proceedings.

- (9) Immediately upon the inception of the Alliance Boston Borough Council shall establish a Boston Borough Council Management Scrutiny Committee comprised of the Chairmen and Vice Chairmen of each of the Council's overview and scrutiny committees and the Leader and Deputy Leader of each political group. The Chairman of the Committee shall be appointed at the beginning of each meeting and shall not be the Leader or Deputy Leader of the majority group. The remit of the Committee shall be to shadow and scrutinise the evolution of the joint officer corps under the Joint Chief Executive and the Joint Management Team and to make such reports as it see fit to the Alliance's Joint Strategy Board and to Boston's Borough Council's full Council.
- (10) Boston Borough Council shall have the option to terminate the Alliance after 12 months by giving 3 months' written notice to East Lindsey District Council on 1st April 2021 (or 9 months after the date the Alliance becomes operative, whichever is the latter). For the avoidance of doubt: (a) if such notice is given the Alliance will terminate on 1st July 2021 or 12 months after the Alliance comes into effect, whichever is the later; and, (b) after the Agreement has operated for a period of 12 months, either party may terminate the Alliance in accordance with Clause 8 of the Memorandum of Agreement.

REASONS FOR RECOMMENDATIONS

In the context of mounting budget pressures, the strategic alliance will allow the Councils to deliver on their ambitions for local people and give them a stronger voice in any process to reshape Local Government in Lincolnshire.

ALTERNATIVES CONSIDERED

Not to enter into a strategic alliance.

REPORT

A1 PREAMBLE

- A1.1 At its meeting on 10th June 2020, the full Council expressed concern about the pace at which it was proposed to enter into a Strategic Alliance with East Lindsey District Council and the need for scrutiny of the implementation of the proposals, at least until members have gained experience of, and confidence in, the new joint officer leadership team.
- A1.2 The Leader of the Council recognised the force of those concerns, and therefore withdrew the report. Subsequently, consultation with Councillors from outside the administration indicated that the proposal could be made acceptable by incorporating an amendment to the Memorandum of Agreement, which would provide this Council (but not ELDC) with the option of ending the Alliance after 12 months and by devising a scrutiny process that runs alongside the implementation of the arrangement to inform any such decision.

A1.3 Those arrangements are set out in Recommendations (9) and (10), they speak for themselves, and will not be repeated here. East Lindsey District Council has confirmed it would be content to proceed on the basis of the recommendations in this report. Council is now invited to agree to enter into the Alliance on those amended terms for the reasons that were set out in the original report and which are repeated below.

1. BACKGROUND TO REPORT

Why have a Strategic Alliance?

- 1.1 The objects of the Alliance are set out in the Memorandum of Agreement, which is attached to this report. They are compelling.
- 1.2 In essence, it is proposed that each Council should retain its distinct and special identity, decision making powers and accountability. The Joint Chief Executive's task would be to combine the talent and experience of each authority's officers to build capacity and deploy resources that are necessary to transform service quality across the board. The goal is to deliver better outcomes for local people at a significantly lower cost than could be achieved if they were to continue to operate separately. Joint working on the planning and delivery of services will also mitigate pressure on the Council's budgets, which is otherwise likely to put a brake on their ambitions. Working together should also enable them to command greater influence in the allocation of resources from Government, the LEP and others. This ought to be the case because they will represent many more people, focus on a coastal zone with a distinct identity and shared problems and opportunities and will consequently be able to scale up their proposals for local people. Obvious examples include working with the EA and LCC to advance plans for enhanced flood defence, upgrading the A16, investment in tourism and SME businesses.
- 1.3 Joint working will also give the Councils a stronger voice in any process to reshape Local Government in Lincolnshire. They would be able to promote a common agenda with a single voice. They would also have gained experience of managing strategic change quickly and effectively. There is also the longer term possibility for the strategic alliance to grow in numbers. Giving rise to promote a significant part of Lincolnshire, should the future bring consideration of alternative structures.
- 1.4 It is important to emphasise that there is no settled blueprint for change. The final shape of joint working and the pace of service transformation will be subject to agreement by both Councils. However, for the reasons that are set out in the remainder of this report, Members are invited to agree that the transformation should begin now with the establishment of a Joint Statutory Officer team to advise and assist both authorities on how to "kick start" change and merge workforces.

The purpose of appointing forming a Strategic Alliance - shared characteristics, opportunities and challenges.

- 1.5 Boston Borough Council and East Lindsey District Council have much in common. Each has a relatively small officer corps and limited revenue and capital resources to tackle the multitude of challenges each faces. Both areas are focused on historic towns with extensive rural hinterlands. Their economic base is relatively narrow, which reflects their peripheral location and generally poor linkages to higher order regional and national centres. The recent designation of Boston, Skegness and Mablethorpe as candidates for Towns' Fund investment is evidence that both authorities harbour pockets of severe multiple deprivation. Both populations suffer from significant levels of ill-health and educational under-achievement. The prospects for young people are generally poor. Their ambition needs to be raised, the result of which is that they must be given the education, skills and other life chances to achieve that ambition.
- 1.6 However, the opportunity offered by the Towns' Fund also indicates that both areas are seen by Government to have the potential for economic transformation. The Boston Quadrant, the growth of Boston College of Further Education and the health of the town's port is evidence of the scale and quality of change that can be achieved. Similar large scale transformation is now being planned in Skegness. Each area also boasts a tremendous tourism offer based upon traditional seaside attractions, a rich built heritage, historic waterways and a stunning natural coastline. The potential for generating more economic growth and increasing the prosperity and life chances of local people is enormous. However, there are also some significant challenges. The risk of coastal and riverine flooding is a shared problem that could constrain future growth unless effective and coordinated measures are taken to plan for and secure improved flood defences. This will require effective engagement at the highest level with DEFRA, the Environment Agency and the County Council. Significant investment is also needed in roads, railways and other key infrastructure to ensure growth can continue. That highlights a key risk to the achievement of each Council's ambitions: finance and resources.

The pressure on Local Government Finance.

- 1.7 Local Government 'spending power' in England fell by over a quarter between 2010 and 2019. Moreover, while Local Government had experienced funding cuts before, the reduction since 2010–11 is without parallel in modern times. The scale, intensity and the long time period over which it has taken place are greater. This large fall in Local Authorities' resources has been primarily caused by very significant cuts in Central Government Grants. There is no realistic prospect of this trend being reversed in the foreseeable future. Grant funding is unlikely to grow significantly (or at all) in real terms. There is also only a very limited opportunity to offset this pressure by increasing council tax.
- 1.8 Councils' difficulties do not end there. While Local Authorities have had their funding reduced, they have also had to cope with increased demands for the key services that they provide. The population has been growing but, more importantly, the parts of the population that rely on the services or have

demand for the services have been growing more quickly than the population as a whole. There have been significant increases in demand, notably in adult social services. Whilst care for the elderly is primarily the duty of the County Council and the NHS, Districts are playing an increased role in this and other spheres as local service delivery becomes more joined up. The bottom line is that demographic changes, the higher minimum wage and other factors (such as changes to the benefits system) have increased demand and costs much more quickly than Councils' ability to raise council tax or business rates.

1.9 The financial pressure facing both Councils is likely to become more acute in the short term as a result of the loss of revenue and additional unplanned spending caused by the need to tackle the Covid19 Pandemic. Whilst it is not possible to ascertain the implications of this emergency with certainty, it is clear that:-

- (1) The rate of collection of Council Tax and Business Rates is likely to fall dramatically in the coming months. Government grant support is seemingly inadequate to cover all losses.
- (2) The demand for Council Tax Support is likely to increase significantly.
- (3) Both Councils are duty bound to pay IDB Levies and demands to other precepting bodies.
- (4) Fee earning services experience a marked fall in income over at least the next 3 months, or for as long as social distancing measures are in place.
- (5) In short, the financial impact on both Councils will be of the scale neither have had to contemplate before. All pre-Covid19 projections have been rendered out of date. Both Councils face an urgent imperative to take bold action to maintain their financial sustainability.

1.10 Against that background, the Councils that will deliver on their ambitions for local people will be those that join forces to:-

- 1) Achieve economies of scale and thereby liberate the skills, talent and pooled experience of their combined workforce.
- 2) Develop and implement innovative methods of service delivery.
- 3) Trade and charge creatively to raise revenue without imposing unacceptable cost penalties on the public.
- 4) Bid successfully for bespoke funding streams made available by Central Government and funding bodies such as Homes England and the LEP.

1.11 One of the consequences of the financial strictures imposed on Councils is the pressure Government is placing on Local Authorities to scale-up by adopting county-wide unitary and mayoral structures. Past experience in Lincolnshire suggests this will be difficult to achieve. In the interim, a better approach is to build alliances from the "bottom up". That will allow resources to be shared quickly and effectively, reducing pressure on budgets, and giving those partners a stronger voice in the allocation of scarce resources from Central Government and bodies such as the LEP, and the shaping of new unitary

structures. On that basis, Members are invited to conclude that the case for a Strategic Alliance is compelling.

The immediate potential for joint working between Boston Borough Council and East Lindsey District Council

1.12 The Authorities' shared characteristics, opportunities and challenges are reflected by their shared priorities. That creates great potential for joint working on common strategic issues across their administrative boundaries. This would have several advantages:-

- (1) Seamless, uninterrupted planning and delivery of services to a community whose common needs are not primarily shaped or dictated by administrative boundaries.
- (2) Economies of scale with the potential to dramatically free up financial resources and deliver significant reductions in the management overhead, liberating more resources to be directed to frontline staff delivering excellent customer service. The headline facts are:-
 - a) An existing combined spend of £23.5 million on staff (665 FTE posts).
 - b) Duplicate management structures.
 - c) Some teams short staffed. Others have the potential to be combined or rationalised.
 - d) *By way of illustration only*, other Council workforce mergers evidence a minimum 5% reduction in staffing costs. This provides a level of confidence and a rationale to target the annual savings of £1.2 million (33 posts) to offset future funding reductions or provide capacity to do things which would be unaffordable. This figure allows for a natural level of turnover and thus the potential to re-engineer each organisation without impacting adversely on the existing workforce. The actual level of savings that will be delivered by the operation of this Alliance will be a matter for the Members of each Authority, to be determined as a priority after its inception). The sharing of financial savings/costs would be based on respective populations which is the more normal basis for such arrangements.
- (3) Sharing of existing best practice to improve both Councils' services. Boston has an enviable track record of delivering urban regeneration. East Lindsey is piloting a national initiative to promote better aging and has a strong reputation for delivering a high quality tourism offer through the development of a Coastal BID and its marketing of the Heritage Coast and Lincolnshire Wolds.
- (4) Sharing of existing innovative ways of working which provide opportunity for career development and advancement for staff. It is staff that will make the strategic alliance work well and quickly and the high level of engagement and awareness, to date, with our workforce will remain a

fundamental and important part of aligning culture to bring enthusiasm and interest to this exciting venture.

- (5) Opportunities for better coordinated and more effective joint working with other sectors, such as the NHS and FE providers. Significant efficiencies could also be secured by joint emergency planning.
- (6) The potential to develop and promote joint business cases for major investment that will assist both Councils, such as the delivery of improvements to the A16 and coastal flood defence.
- (7) Greater potential to procure and take advantage of new technology more economically and efficiently.
- (8) The formation of a strategic alliance would also respond positively and consistently to each Council's Peer Review, which highlighted the imperative to transform services through effective partnership working in the face of increasing demands on services, financial strictures, and the legitimate expectation of councillors and the public that service delivery should continue to be of the highest quality.

The key to realising these opportunities quickly is effective political leadership across both authorities, served by a unified officer corps, led and made fit for purpose by a Joint Chief Executive.

Taking the proposal forward: the mechanics and a draft timescale.

1.13 The formation of a Strategic Alliance giving strong political leadership, advanced and served by a Joint Chief Executive and a unified officer structure, is a proven concept that works well. It can be implemented with pace and minimum risk where there is a joint political will to do so. With that in mind, the process would unfold as follows:-

- 1) Mr Robert Barlow, the current Chief Executive of East Lindsey District Council, will be appointed Joint Chief Executive and Head of Paid Service of East Lindsey District Council and Boston Borough Council, effective from 1st July 2020. The mechanics of this arrangement are that Mr Barlow will continue to be employed by East Lindsey District Council and will be seconded to Boston Borough Council, under Section 113 of the Local Government Act 1972. Therefore, a bespoke process is required. Simultaneously with Mr Barlow's appointment, Mr Phil Drury, the existing Chief Executive and Head of Paid Service of Boston Borough Council, will leave his post. The future cost of employing Mr Barlow as Joint Chief Executive and Head of Paid Service and the cost of Mr Drury's exit will be met in the proportions, 67 percent paid by East Lindsey District Council and 33 per cent by Boston Borough Council. (ONS population data).
- 2) In order to effect the rapid and effective implementation of joint working, the Joint Chief Executive would have the power to appoint to all

Management posts (Management review) following the agreement of a new Management Structure supported by both Leaders. It's anticipated this would be a 3 month process with the aspiration of minimising disruption to the employers and employees. Those appointments would be made from the existing pool of Officers of both authorities. The cost of making redundant or retirement (if any and as last resort) of any Officer arising from this process would be met in the proportions, 67 percent paid by East Lindsey District Council and 33 per cent by Boston Borough Council. It is proposed any such costs should be paid back in the same proportions to each authority within the first 8 months of the Alliance. (future appointments of any Chief Officer would be made by a Joint Chief Officer Employment Committee, as provided in the First Schedule to the Memorandum of Agreement.

- 3) In order to ensure that there is effective and coordinated governance of both Councils from "day one", it is further proposed that a Joint Monitoring Officer and a Joint Section 151 Officer should be appointed alongside Mr Barlow. It is recommended that Michelle Sacks, Corporate Director and Deputy Chief Executive of Boston Borough Council (and an experienced Solicitor and Monitoring Officer), and Mr Paul Julian, Chief Financial Officer of Boston Borough Council and an experienced Section 151 Officer, should be appointed to these roles. John Armstrong and Adrian Sibley (External Secondment), who currently perform the duties of Monitoring Officer and Section 151 Officer, respectively, for East Lindsey District Council have agreed to stand down from these roles.
- 4) For the avoidance of doubt, Mr Barlow, Ms Sacks and Mr Julian would continue to receive their existing salary as a result of becoming joint statutory officers. Terms of employment should only be considered once the wider management restructure has been put in place.
- 5) For clarity the Chief Executive (supported by S151/MO) would be authorised to carry out an immediate management restructure of all management positions. Further re-structuring would be carried out over a longer period, in consultation with and subject to the approval of each authority within a new performance framework and on a service by service basis that would be agreed with Members. The period of service review is likely to cover 24 months indicating a slow integration for the majority of employees.
- 6) It is considered that a prudent target should be to reduce the combined budget of the two Councils by £1.2m over the first 12 months. The Joint Chief Executive will be charged with delivering this saving without there being a reduction in performance or service quality. It is also suggested that a provisional target delivering a further saving across the partnership from all budgets should be set in the sum of £600k, to be achieved from month 13 to 24 of the strategic alliance. Savings would allow reinvestment in services.

- 7) A strategic alliance is acknowledged by both Authorities. This could operate in a variety of ways and would not affect the continuing political autonomy and decision making of the separate Councils.
- 8) A formal review of the strategic alliance and merged workforce would be carried out by a Joint Scrutiny Committee in January 2021 and January 2022.
- 9) The savings that are achieved from the first phase of restructuring should be secured as far as is possible by savings from long term vacancies, churn and the reduction of the management overhead. As a matter of principle, the focus of restructuring will be to protect frontline, customer facing staff; maintaining the capacity to serve the public and delivering services of the highest quality will be the touchstone of this initiative.
- 10) Any adjustments to baseline costs or savings would be shared according to population numbers (33% BBC, 67% ELDC).
- 11) Subject to a positive review of the partnership, and adopting the logic that has driven this proposal, consideration could be given to introducing a further partner.
- 12) Quarterly joint Cabinet/Executive Meetings (Strategic Boards) would be timetabled for developing partnership structures, processes and priorities, and oversight of the success and delivery of financial and performance targets.
- 13) The single Joint Chief Executive/Head of Paid Service would prepare a Branding and associated Engagement Plan for Staff and Partners which would celebrate and identify the "One Team" approach.

2. FINANCIAL CONSIDERATIONS/IMPLICATIONS

- 2.1 The Leaders and Deputy Leaders of Boston Borough Council and East Lindsey District Council have met to discuss the way in which a seamless transition could be achieved to the creation of a Strategic Alliance. That will involve the appointment of the Joint Statutory Officer Team, coupled with the departure of other colleagues, who have recorded long and distinguished service in their roles.
- 2.2 The financial implications of exit costs are significant yet quickly recovered through the long term savings arising from the change. Costs have been obtained from the Local Government Pension Fund. In the interim, provision is made for a total costs of circa £750k split 67 per cent East Lindsey District Council and 33 per cent Boston Borough Council.
- 2.3 It is not anticipated that there will be many other significant costs associated with the formation of the Alliance as a result of redundancy or retirement of other Management posts. However, prudent provision has been made to cover such costs against year 1 savings.

- 2.4 Employed Officers will largely remain with unchanged terms and conditions and the integration of teams will be on a gradual basis and with a weather eye on keeping employment contracts numbers balanced across both organisations. This can be done alongside a very positive cultural divergence of a “One Team” ethos.
- 2.5 The Strategic Alliance is built on a prudent business case, similar to those achieved by other partnerships. In order to allow both Councils S151 Officers to remain independent from this report, Broadland and South Norfolk Councils have supported in the provision of independent financial advice. Their Finance Director has experience of delivering a strategic alliance between two Councils and is therefore well placed to offer advice based on experience. The advice suggests the costs and savings projected are realistic and deliverable.

3. LEGAL CONSIDERATIONS/IMPLICATIONS

- 3.1 In view of the potential conflict of interest of the Councils’ statutory officers, Eversheds-Sutherland (International) LLP, Solicitors with very substantial experience of Local Government and Employment Law, have been engaged to review this Report and the Memorandum of Agreement and have confirmed that the approach indicated is lawful. Advice received has been adopted into the MOA.
- 3.2 However, as the process unfolds, care will need to be exercised to ensure the process for appointing officers to posts within the joint officer corps is both lawful and accords with good practice. Attention will also need to be paid to HR considerations more generally. For this reason, and subject to the receipt of a satisfactory fee proposal, it is proposed to retain Eversheds as advisers to the authorities on the creation of the new Shared Management Team and other posts that will be appointed to under the power delegated to Mr Barlow. For the purpose of clarity independent external advice has been made available to Members to ensure the Statutory Officers personally impacted by the formation of this strategic alliance are not conflicted by the provision of advice relating to their own employment.
- 3.3 A further consideration is the need to develop a service by service business cases to drive the Alliance forward once the initial restructuring of the Senior Management Team has been completed. There can be no doubt about the great potential to deliver more economy, efficiency and higher performance across both organisations. However, Councillors will rightly expect the new Management Team to set out clearly the outcomes that they intend to achieve and the key milestones that must be passed along the way. That will ensure change is measured and seen to occur at a satisfactory pace. This will be an Alliance that delivers results.

4. CONCLUSION

4.1 There are different ways of effecting organisational change. Some organisations prefer to proceed by designing an elaborate blueprint, endeavouring to anticipate every significant issue and risk and then designing in “solutions” in advance. That tends to be slow, resource intensive and is prone to failure simply because the kind of transformational change that is now contemplated throws up unexpected challenges that simply cannot be foreseen fully or planned for effectively before it is initiated.

4.2 Therefore, the approach that is contemplated in this instance relies on a process known as “mixed scanning”. Mr Barlow and his Chief Officer Team will work closely with Councillors of both authorities to identify the outcomes that are required to be delivered at the end of the process (what does an effective, efficient and economical joint establishment look like?), and the procedures that are to be put in place to bring them about. Those matters having been established and jointly agreed, the establishment will be created in stages, it being explicitly understood the process will throw up problems and challenges, which Management and Councillors will identify and solve (“scan”), to arrive at new working arrangements swiftly and pragmatically (it being possible and desirable to continue to keep these under review as the Alliance matures).

Other options for consideration:

An option is to do nothing, but this would deprive the Councils of the opportunity, with mounting budget pressures, to deliver on their ambitions for local people through: achieving economies of scale; pooling skills, talent and experience of their combined workforce; development and implementation of innovative methods of service delivery across both local authority areas; to trade and charge creatively to raise revenue without imposing unacceptable costs on local people; and better position themselves to successfully bid for funding streams made available by Central Government and other funding bodies such as Homes England and the Lincolnshire Enterprise Partnership.

FINANCIAL IMPLICATIONS
As set out in the body of the report.

LEGAL IMPLICATIONS
As set out in the body of the report.

CLIMATE CHANGE IMPLICATIONS
None.

EQUALITY AND SAFEGUARDING IMPLICATIONS

None.

OTHER IMPLICATIONS

As set out in the body of the report.

CONSULTATION

The Chief Officer Employment Panel met on Wednesday 20 May to consider the recommendations within this report relating to the appointment of a Joint Chief Executive and sharing arrangements for the Monitoring Officer and Section 151 Officer.

After due debate the Panel made the following recommendation to Full Council:

That it be recommended to Full Council that the proposed appointment of Robert Barlow as Joint Chief Executive/Head of Paid Service of East Lindsey District Council and Boston Borough Council, and the proposed arrangements for the sharing of Boston Borough Council's Statutory Officers, i.e. the Section 151 Officer and the Monitoring Officer with East Lindsey District Council be not progressed at this time for the reasons set out below:-

This Council agrees that a Strategic Alliance needs to be the best fit for Boston, therefore, at this time we propose that we do not proceed with the options before us.

This council currently has sufficient resources to maintain adequate levels of service delivery and to balance the budget in 2021/22 and given those facts, we propose the following to Cabinet and Full Council:

- **That exploratory discussions are held with elected members and officers of other local authorities who are potential partners in such an alliance**
- **That Scrutiny committees are kept fully involved and appraised of all such discussions**
- **That any future decisions are made after full consultation with elected members, along with the residents of the Borough of Boston.**

The minutes of the meeting of the Chief Officer Employment Panel are attached at Appendix F.

The Cabinet considered the report at its reconvened meeting held on Wednesday 27 May and unanimously agreed to refer the recommendations to Full Council for approval.

The Corporate and Community Committee met to consider the report on Thursday 4 June. The recommendations from the meeting are set out in Appendix H.

A list of Frequently Asked Questions from Members and staff of both authorities is set out at Appendix G.

Leaders, and Deputy Leaders of both Boston Borough Council and East Lindsey District Council have been consulted on the report.

Independent legal and financial advice has been sought and is appended to the report.

APPENDICES

Appendices are listed below and attached to the back of the report: -

<i>APPENDIX A</i>	Memorandum of Agreement
<i>APPENDIX B</i>	Financial Business Case
<i>APPENDIX C</i>	Legal Advice
<i>APPENDIX D</i>	Financial Advice
<i>APPENDIX E</i>	BBC/ELDC One Team Logo
<i>APPENDIX F</i>	Chief Officer Employment Panel Minutes – 20 May
<i>APPENDIX G</i>	FAQs
<i>APPENDIX H</i>	Corporate and Community Committee Recommendations – 4 June 2020

BACKGROUND PAPERS

No background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.

CHRONOLOGICAL HISTORY OF THIS REPORT

<i>Name of body</i>	<i>Date</i>
Chief Officer Employment Panel (For shared Statutory Officers element only)	20 May 2020
Cabinet	27 May 2020
Corporate and Community Committee	4 June
Full Council	10 June 2020

MEMORANDUM OF AGREEMENT
BETWEEN
BOSTON BOROUGH COUNCIL
AND
EAST LINDSEY DISTRICT COUNCIL

**RELATING TO AN INTEGRATED SHARED MANAGEMENT STRUCTURE AND THE
DEVELOPMENT OF A STRATEGIC ALLIANCE BETWEEN THE TWO COUNCILS**

DRAFT DATED 21st APRIL 2020

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Memorandum of Agreement

Dated: [Insert].

The Parties

- (1) **East Lindsey District Council** whose principal office is at Tedder Hall, Manby Park, Louth, Lincolnshire LN11 8UP

and

- (2) **Boston Borough Council** whose principal office is at The Municipal Buildings, West Street, Boston, Lincolnshire PE21 8QR.

1. Introduction

- 1.1 This Memorandum of Agreement between the Councils sets out:
 - a) The purpose and aims of the Strategic Alliance.
 - b) The purpose and aims of the shared management structure and agreed areas of joint working; and
 - c) The basis on which the Councils shall operate.

2. Background and Overview

- 2.1 Section 113 (1) of the Local Government Act 1972 provides that a local authority may enter into an agreement with another local authority for the placing at the disposal of the latter for the purposes of their functions, on such terms as may be provided by the agreement, of the services and officers employed by the former.
- 2.2 At their meetings on [Date] and [Date] East Lindsey District Council and Boston Borough Council respectively decided to prepare proposals for an integrated shared management structure that is intended to facilitate the development of a Strategic Partnership between the two councils.
- 2.3 At its meeting on [DATE] East Lindsey District Council agreed to the secondment of its Chief Executive to Boston Borough Council and at its meeting on [Date] Boston Borough Council approved the appointment of its Chief Executive and Head of the Paid Service in a joint arrangement with East Lindsey District Council.
- 2.4 The objects of a Strategic Alliance facilitated by a shared workforce structure are:
 - To provide adequate capacity to both authorities so that they are individually and collectively better able to deliver on their priorities to local people.
 - Acting together to develop, promote jointly and secure investment in strategic infrastructure that will benefit both areas by assisting

economic growth and regeneration, including, but not limited to roads, railways, flood defences and land drainage, educational, health and well-being infrastructure, especially in and around Boston, Skegness and Mablethorpe, which are each areas designated as eligible to compete for Towns Fund monies

- For each council individually to continue to exercise democratically accountable local government in their respective areas and have their own governance arrangements whilst sharing management of agreed internal and external services.
- To provide opportunity and ease the transition to more joint commissioning of services and sharing resources where a business case supports such a decision.
- To provide more efficient and economical services to local people whilst maintaining or improving the quality of the services that are provided to them.
- To make financial savings to the combined staffing costs of the existing management structures.

2.5 Although the shared workforce structure may provide opportunities and ease the transition to joint commissioning of services, this agreement does not commit either council to the commissioning of joint services.

2.6 At their respective meetings on [DATE] and [DATE] the Councils resolved to enter into this Agreement.

NOW IT IS HEREBY AGREED as follows

3. Definitions

In this Agreement the following terms shall have the following meanings:

Term	Meaning
Chief Executive	the officer for the time being appointed as Chief Executive of the Councils
Clause	a Clause in this Agreement
Commencement Date	1 July 2020
Council	East Lindsey District Council or Boston Borough Council (as the case may be)
Councils	both East Lindsey District Council and Boston Borough Council

Cabinet	The Executive of East Lindsey District Council or the Cabinet of Boston Council as the case may be, appointed in accordance with Part II of the Local Government Act 2000
Executive Arrangements	construed in accordance with Part II of the Local Government Act 2000
Expenses	shall be interpreted in accordance with Clause 7
Head of Paid Service	the officer for the time being appointed under Section 4 of the Local Government and Housing Act 1989 (currently the Chief Executive)
Intellectual Property Rights	All patents, rights to inventions, copyright and related rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
Leader of the Council	Leader of East Lindsey District Council or Leader of Boston Borough Council for the time being as the case may be
The Joint Committees	the Joint Appointments Committee and the Joint Appointments Appeals Committee
The Joint Appointments Committee	the Joint Appointments Committee established by the resolutions of the Councils at their respective meetings on [INSERT DATE] and the terms of reference set out at Schedule 1
The Joint Chief Officer Employment Panel	The Joint Chief Officer Employment Panel established by the resolutions of the Councils at their respective meetings on [insert] and [insert] and with the terms of reference set out at Schedule 2

The Joint Strategy Board	the advisory body established with the terms of reference set out at Schedule 3
Legal Adviser	the person for the time being appointed by East Lindsey District Council or Boston Borough Council to provide legal advice to the Council or Councils and may be an officer of the Council or Councils or an external person who is legally qualified
Monitoring Officer	the officer for the time being appointed under Section 5 of the Local Government and Housing Act 1989
Shared Workforce Structure	Employees and other senior staff employed within the joint structure who shall be appointed by one Council and placed at the disposal of the other Council.
Shared Senior Management Team	the Shared Senior Management Team established by Clause 6
Section 151 Officer	the officer for the time being appointed under Section 151 of the Local Government Act 1972

4. Preliminary

4.1 This Agreement is made pursuant to

- (a) Sections 101 and 102 of the Local Government Act 1972 (delegation to joint committees);
- (b) Section 112 of the Local Government Act 1972 (duty to appoint officers);
- (c) Section 113 of the Local Government Act 1972 (power to place staff at the disposal of other local authorities);
- (d) Section 1 of the Localism Act 2011 (local authorities' general power of competence);
- (e) Sections 14 and 20 of the Local Government Act 2000 and The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000/2851 (joint arrangements for the exercise of executive functions)
- (f) Sections 19 and 20 of the Local Government Act 2000.

and all other enabling powers.

4.2 This Agreement has been entered into by the Councils by virtue of the

resolutions of the Councils at their respective meetings on [date] 2020 and [date] 2020.

- 4.3 This Agreement shall commence on the Commencement Date and subject to Clause 8 (Termination and Review) shall continue in full force and effect unless and until the Councils agree to terminate it.
- 4.4 The Councils shall at all times co-operate with each other and shall observe the following key principles:
- trust, transparency, integrity and respect
 - effective working relationships
 - co-operation, collaboration, and information-sharing whilst respecting the confidentiality of the other Council
 - accountability to their council tax payers and each other
 - openness to change
 - systematic and outcome focused in their approach to working together
 - sensitivity to the fact each council operates in a political environment
- 4.5 The Councils shall each use their best endeavours to ensure that their contractors and other partners operate and provide their services and service-related information and data to the relevant Council in such a manner as to support the aims of this Agreement generally and in a manner which observes and supports the obligations set out in sub-clause 4.4 above

5. The Joint Committees and Joint Strategy Board

- 5.1 The Councils have established the Joint Committees/Panels:
- Joint Chief Officer Employment Panel
 - Joint Appointments Appeals Committee
- 5.2 The Joint Committees /Panels shall have the terms of reference agreed by the Councils at their respective meetings on [date] and [date] as set out in the Appendices or such other amended terms of reference as they may recommend to the Councils and as the Councils shall approve.
- 5.3 The Joint Strategy Board shall not be a formal joint committee within the meaning of the Local Government Acts unless and until resolved otherwise. It shall meet, operate and be serviced in accordance with its terms of reference at Schedule 3. In practical terms this means that in the first instance the Board will be advisory in nature and that any decisions affecting either council will be made by their respective Executives or Full Council, as appropriate.
- 5.4 The Joint Appointments Committee and the Joint Appointment Appeals Committee shall be joint committees within the meaning of section 101 (5) of the Local Government Act 1972 and shall be politically balanced for each Council in accordance with Part I of the Local Government & Housing Act 1989.

- 5.5 The Joint Appointments Committee and the Joint Appointment Appeals Committee shall be serviced by staff from either Council unless otherwise agreed in writing between the Councils and where there is any conflict with the terms of this Agreement then this Agreement shall prevail.
- 5.6 Notwithstanding Clause 7 (Finance) below each Council shall meet any cost that they incur arising from meetings of the Joint Committees and/or the Joint Strategy Board.
- 5.7 The Joint Committees shall take into account advice from officers of the Councils.
- 5.8 The Joint Appointments Committee and the Joint Appointment Appeals Committee shall meet as and when necessary having regard to its terms of reference.
- 5.9 Where decisions are taken by the Joint Committees, the following principles and conditions shall apply:
- (a) the Joint Committees shall have proper regard to any relevant resolution of one Council provided that such resolution is not to the detriment of the other Council;
 - (b) the Joint Committees shall satisfy themselves that any inter Council consultation has been carried out;
 - (c) the taking of decisions shall be subject to there being appropriate and adequate budgetary provision by the Councils;
 - (d) any decision which could have legal implications shall be taken in consultation with the Monitoring Officer and Legal Adviser;
 - (e) any decision which could have financial implications shall be taken in consultation with the Section 151 Officer;
- 5.10 The Joint Committees shall not be bodies corporate nor shall they have the functions of acquiring or holding assets employing staff or entering into contracts.

6. The Shared Workforce Structure and the application of Section 113 of the Local Government Act 1972

- 6.1 The Councils agreed at their respective meetings on [insert] and [insert] to the creation of a Shared Workforce Structure which is attached at Schedule 4 to this Memorandum of Agreement.
- 6.2 Staff within the Shared Workforce Structure may be employed by either one of the Councils and having been so employed shall forthwith be placed at the

disposal of the Council who is not their employer.

- 6.3 For superannuation purposes, service rendered by an officer of one of the Councils whose services are placed at the disposal of the other in pursuance of section 113 of the Local Government Act 1972 and hence in pursuance of this Agreement is service rendered to the Council by whom he/she is employed
- 6.4 Any officer falling within the definition at 6.3 above shall be treated for the purposes of any enactment relating to the discharge of functions of a local authority as an officer of the other Council and members of the Shared Workforce Team and other shared officers may act and shall have powers to act under the constitutions of the Councils.
- 6.5 The members of the Shared Workforce Team shall divide their time fairly and reasonably between the Councils and shall not show bias towards one Council vis-à-vis the other.
- 6.6 The Chief Executive shall be the shared Head of Paid Service in respect of the workforce of the Councils. The Chief Executive shall lead the Shared Senior Management Team. Membership, frequency of meetings, terms of reference and other matters relating to the Shared Senior Management Team shall be at the discretion of the Chief Executive.
- 6.7 Pension contributions, including those relating to payments due in respect of the pension deficits of the two Councils upon the transfer appointment to or employment of staff within the Shared Senior Management Team, will be met jointly by the Councils: East Lindsey District Council shall meet 67 per cent of the payments and Boston Borough Council shall meet 33 per cent of the same.

7. Finance

- 7.1 The costs and savings arising from the creation of the Shared Workforce Team shall be apportioned as follows:
 - 7.1.1 East Lindsey District Council shall meet 67 per cent and Boston Borough Council 33 per cent of the costs of officer time and travel in supporting the project through the evaluation to implementation of the Shared Workforce Team;
 - 7.1.2 East Lindsey District Council shall meet 67 per cent and Boston Borough Council 33 per cent of the one-off costs of external support to facilitate the creation of the Shared Workforce Team;
 - 7.1.3 East Lindsey District Council shall meet 67 per cent and Boston Borough Council 33 per cent of all redundancy and associated pension strain costs and subsequent redundancy, Employment Tribunal or other dismissal claim costs arising from the creation or ongoing operation of the Shared Workforce Team;
 - 7.1.4 East Lindsey District Council shall meet 67 per cent and Boston Borough Council 33 per cent of the ongoing salary and on-costs superannuation national insurance training travel and incidental costs of the Shared Workforce Team; (Note: All savings and costs will be

dealt with as amendments to the baseline 2020/21 budgets of each Council.)

- 7.1.5 any proposal to apportion or share new on-going costs/savings other than in the proportion that East Lindsey District Council shall meet 67 per cent and Boston Borough Council 33 per cent of the same shall only be made following a resolution of each Council's Cabinet/Executive on the recommendation of the S151 Officer and in the case of an apportionment that is a departure from the budget framework of each Council by its full Council.
- 7.2 The Section 151 Officer shall account to each of the authorities annually regarding the expenses of the Shared Workforce Team by not later than 30th June following the end of the financial year and shall render valid VAT invoices accordingly.
- 7.3 Costs incurred upon termination shall be apportioned in accordance with clause 8 below.

8. Termination and Review

- 8.1 This Agreement shall continue unless terminated in accordance with this Clause 8 PROVIDED ALWAYS THAT the provisions of this Clause 8 shall be subject to any other provision of this Agreement extending financial liability beyond termination.
- 8.2 Where one of the Councils proposes to withdraw from the Agreement for whatever reason (including any allegation of fundamental breach) that Council shall prepare a report to the Joint Strategy Board, setting out its reasons. If the Joint Strategy Board acting reasonably cannot remedy the problem (and such remedy shall include invoking Clause 11 Dispute Resolution unless both Councils agree otherwise in writing) within a reasonable time and to the reasonable satisfaction of both Councils then the Council proposing to withdraw shall be at liberty to withdraw from this Agreement and to bring the arrangements for a Shared Workforce Structure to an end.
- 8.3 Where both Councils jointly agree to terminate or withdraw from this Agreement they shall do so by each giving the other not less than 12 months' prior written notice and such a decision to terminate or withdraw may only be made by both Councils acting by its full Council. If either Council unilaterally terminates or withdraws from this Agreement they shall do so by giving to the other not less than twenty four months' prior written notice and such a decision to terminate or withdraw may only be made by that Council acting by its full Council.
- 8.4 In the event of a termination for any reason the Councils shall:
- (a) co-operate in terminating modifying restructuring assigning or novating contractual arrangements entered into to mutual advantage and properly and timeously execute any documents necessary;

- (b) use best endeavours to secure an amicable and equitable financial settlement;
 - (c) immediately transfer or return any property including data belonging to the other Council;
 - (d) ensure that each Council is allocated a fair and reasonable proportion of the members of the Shared Workforce Team subject to any necessary actions being taken as required by employment law or by the policies of the transferring council so that (1) each Council can maintain continuity in the provision of its services at a reasonable level of effectiveness and efficiency and (2) they become employed by the Council to which they are transferred.
- 8.5 In the event of any dispute which cannot be resolved in respect of any matter referred to under Clause 8.4, Clause 11 shall apply.
- 8.6 In the event of a termination however and whenever occurring the costs consequential upon such termination including costs of recruitment selection administration but not salary costs after the date of termination shall subject always to clause 7.1.3 be apportioned equally between the Councils and each Council shall indemnify and keep indemnified the other Council in respect of that Council's share from and against any actions and causes of action claims demands proceedings damages losses costs charges and expenses whatsoever arising from or in connection with such termination or withdrawal and such indemnity shall continue after the termination of this Agreement.
- 8.7 The Councils may review and seek to amend this Agreement from time to time and in any event shall carry out a review as to the efficacy and relevance of its terms upon every second anniversary of the Commencement Date unless the Councils shall agree otherwise. All changes arising upon such reviews shall only take effect upon the completion and sealing of a formal amending Agreement.
- 8.8 No deletion, addition or modification to this Agreement shall be valid unless agreed in writing and sealed by the Councils.
- 9. Head of Paid Service: Application of section 4 of the Local Government and Housing Act 1989**
- 9.1 The Chief Executive has been appointed Head of Paid Service by the Councils.
- 9.2 The Councils shall provide that officer with such staff accommodation and other resources as are in his/her opinion sufficient to allow his/her duties to be performed.
- 9.3 It shall be the duty of the Head of Paid Service where he/she considers it appropriate to do so in respect of any proposals of his/hers with respect to any of the matters specified below to prepare a report to either one or both of the

Executive/Cabinet setting out his/her proposals. The matters are:

- 9.3.1 the manner in which the discharge by either one or both of the Councils of their different functions is coordinated;
 - 9.3.2 the number and grades of staff required by the Councils for the discharge of their functions;
 - 9.3.3 the organisation of the staff of the Councils; and
 - 9.3.4 the appointment and proper management of the staff of the Councils.
- 9.4 It shall be the duty of the Head of Paid Service, as soon as practicable after he/she has prepared such a report, to arrange for a copy of it to be sent to each member of either one or both of the Councils as the case may be.
- 9.5 It shall be the duty of each of the Councils separately to consider any such report by the Head of Paid Service at a meeting held not more than three months after copies of the report are first sent to councillors of one or both of the Councils.

10. Head of Paid Service: Supplementary

- 10.1 Without prejudice to Clause 9 above it shall be the duty of the Head of Paid Service to ensure that all Councillors have such access to and support from all officers of their Council and in particular to the Head of Paid Service and Shared Workforce Team as they may reasonably expect.
- 10.2 Without prejudice to Clause 9 above the duties of the Head of Paid Service shall include advising the Joint Committees and advising the Cabinet of each Council in respect of executive functions within the meaning of the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 or the full Council or relevant committee of each Council in respect of non- executive functions within the meaning of the said regulations and the duty of the Head of Paid Service to advise the Councils shall include but not be limited to providing advice on:
- (a) The structure of the Shared Senior Management Team of the Councils;
 - (b) The host employer for each post; and
 - (c) Performance management of the Shared Senior Management Team.

11. Dispute Resolution

- 11.1 In the event of a dispute concerning the construction or effect of this Agreement which cannot be resolved by the Joint Strategy Board the matter shall be referred to the Joint Appointments Committee which shall take all reasonable steps to conciliate and resolve such dispute or difference whether by

negotiation, mediation or any other form of dispute resolution procedures (with a view to resolution by discussion and negotiation).

11.2 In the event that a matter in dispute cannot be resolved under Clause 11.1 above the matter shall (unless the Councils agree otherwise in writing) be referred to an arbitrator under Clause 11.3 below.

11.3 The arbitrator shall be appointed with the agreement of the Councils or in the event that agreement cannot be reached by the President or other chief officer of the Chartered Institute of Arbitrators or such other professional body appropriate to the matter in dispute (such body to be determined by the Chief Executive). The costs of arbitration shall be borne jointly by the Councils.

11.4 The resolution of unresolved disputes in respect of the expenses of any Joint Committee to which section 103(b) the Local Government Act 1972 applies shall be determined in accordance with that section by a single arbitrator agreed on by the Councils or in default of agreement appointed by the Secretary of State.

11.5 For the avoidance of doubt this Clause shall remain in effect after the termination or expiry of this Agreement to confer powers on the Councils to resolve matters remaining in dispute.

12. No Fetter of Discretion

12.1 Nothing in this Agreement shall fetter the discretion of the Councils.

13. Liabilities

13.1 The Councils shall be jointly and severally liable to any third parties in respect of all actions and causes of action claims demands proceedings damages losses costs charges and expenses directly arising from this Agreement. Each council shall indemnify and keep indemnified the other Council from and against the extent of the indemnifying Council's liability for any actions and causes of action claims demands proceedings damages losses costs charges and expenses directly arising from or in connection with this Agreement and such liability and indemnity shall continue after the termination of this Agreement.

13.2 Each Council shall ensure that it has all appropriate insurances relating to public liability employee liability professional indemnity and Member indemnity to cover any liabilities arising under this Agreement.

14. Intellectual Property Rights

14.1 Each Council shall retain the ownership of all Intellectual Property Rights it owns as at 30th June 2020 in any materials which it has created or the creation of which was undertaken by a third party which it commissioned to create those materials.

14.2 Any new material created jointly by the Councils in the course of provision of the

Shared Workforce Team shall belong to the Councils jointly unless otherwise agreed in writing.

14.3 Each Council hereby grants a licence to the other to use its Intellectual Property Rights incorporated in or appearing from the materials referred to in clauses 14.1 and 14.2 for the purposes of the performance of this Agreement and the delivery of all services by the Councils.

15. Notice

15.1 Any notice to be served under this Agreement shall be valid and effective if it is addressed to the Chief Executive and delivered by email fax prepaid recorded delivery post or delivered by hand to the other Council's principal office.

16. Rights and Duties Reserved

16.1 Nothing in this Agreement shall prejudice or fetter the proper exercise of any function by the Councils or their officers.

17. Legal and other Fees

17.1 Each Council shall bear its own legal and other fees in relation to the preparation and completion of this Agreement.

18. Provision of Statistical Information Accounts and other Documents etc.

18.1 Each Council shall make available to the other such statistical information which each Council may from time to time reasonably require.

18.2 Without prejudice to any provision in this Agreement requiring the keeping of records the supply of statistics or the provision of information the Councils shall keep such other records and details of or concerning the Shared Workforce Team or their performance as the Councils may require and shall produce or provide to the other copies whether kept electronically or in paper format of such accounts invoices orders contracts receipts statistics and other information or documents touching or concerning or arising from this Agreement or their performance of this Agreement as and when and in such form as each Council may reasonably require.

18.3 Without prejudice to any provision in this Agreement the Councils shall keep and maintain all necessary information and shall provide all necessary assistance to enable each Council to complete all necessary official returns or statistics related to this Agreement.

18.4 The Councils shall supply each other with such assistance and information as each Council may require to enable it to allocate such expenditure as each Council may incur under this Agreement.

19. Audit

- 19.1 Each Council's external and internal auditors shall have the like powers set out in the Local Audit and Accountability Act 2014 and any subsequent amending repealing and superseding legislation. Each Council shall at all reasonable times (including following the termination for whatever reason of this Agreement) allow or procure for any auditor for the purposes of an external or internal audit immediate access to and permission to copy and remove any copies of and permission to remove the originals of any books records and information in the possession or control of either Council which in any way relates to or are or were used in connection with this Agreement including (but without limitation) any of each Council's data and any such information stored on a computer system operated by a contractor servant or agent of the other Council.
- 19.2 Each Council will provide all practicable co-operation and afford all appropriate access to personnel and records in order to assist the requesting Council in carrying out any investigations which are already under way at the Commencement Date and any investigations which are carried out after the termination or expiry of this Agreement but which relate to any period during which the Shared Workforce Structure was in effect.

20. No Partnership

- 20.1 Nothing in this Agreement shall be construed as establishing or implying any legal partnership or joint venture between the Councils although the parties may decide to form partnerships and joint ventures as they develop close and collaborative working arrangements under the Strategic Partnership. Where such partnership or joint venture arrangements are entered into they will be formally recorded in a formal partnership or joint venture document.

21. Anti-Corruption

- 21.1 Either Council may cancel this Agreement at any time and recover from the other the amount of any loss resulting from such cancellation if any of the following apply:
- (a) the other Council has offered or given or agreed to give to any person any gift or consideration as an inducement or reward (1) for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Agreement or any other contract with the Council (2) for showing or forbearing to show favour or disfavour to any person in relation to the Agreement or any other contract with the Council;
 - (b) any person employed by or acting on behalf of the other Council (whether with or without the other Council's knowledge or consent) acts in similar manner to that set out in sub Clause (a) above;
 - (c) in relation to any contract or potential contract with the Council the other

Council or any person employed by or acting on behalf of the other Council shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916 or any amendment or replacement of them or shall have given any fee or reward the receipt of which is an offence under Sub Section (2) of Section 117 of the Local Government Act 1972.

22. Discrimination

22.1 The Councils shall not unlawfully discriminate within the meaning and scope of the provisions of the Equality Act 2010 and any other legislation prohibiting discrimination on any grounds whatsoever. The Councils shall take all reasonable steps to secure the observance of these provisions and any statutory provisions amending or replacing the same by its employees in the performance of the Agreement.

23. Human Rights

23.1 The Councils in the performance of this Agreement shall comply with the provisions of the Human Rights Act 1998 in all respects as if the Joint Committees were public bodies within the meaning of the Act. The Councils shall indemnify and keep indemnified each other against all actions and causes of action claims demands proceedings damages losses costs charges and expenses whatsoever in respect of any breach by the one Council of this Clause and such indemnity shall continue after the termination of this Agreement.

24. Freedom of Information

24.1 It is agreed that the Councils are subject to the provisions of the Freedom of Information Act 2000. Each waives all claims of commercial or other confidentiality in respect of this Agreement.

25. Survival of this Agreement

25.1 In so far as any of the rights and powers of the Councils provided for in this Agreement shall or may be exercised or exercisable after the termination or expiry of this Agreement the provisions of this Agreement conferring such rights and powers shall survive and remain in full force and effect notwithstanding such termination or expiry.

25.2 In so far as any of the obligations of the Councils provided for in this Agreement remain to be discharged after the termination or expiry of this Agreement the provisions of this Agreement imposing such obligations shall survive and remain in full force and effect notwithstanding such termination or expiry.

26. Whole Agreement

26.1 This Agreement constitutes the whole agreement and understanding of the Councils as to its subject matter and there are no prior or contemporaneous agreements between the Councils.

27. Waiver

27.1 Failure by either Council at any time to enforce any provision of this Agreement or to require performance by the other or others of any of the provisions of this Agreement shall not be construed as a waiver of any such provisions and shall not affect the validity of this Agreement or any part or the right of that party to enforce any terms and provision of this Agreement.

28. Severance

28.1 If any term or provision of this Agreement shall in whole or in part become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way such invalidity or unenforceability shall in no way impair or affect any other term or provision all of which shall remain in full force and effect.

29. Headings

29.1 Headings contained in this Agreement are for reference purposes only and shall not affect the validity or construction of this Agreement.

30. Governing Law

30.1 This Agreement shall be governed by and interpreted in accordance with English law and the Councils submit to the exclusive jurisdiction of the English courts.

31. Contracts (Rights of Third Parties) Act 1999

31.1 The Councils do not intend that any term of this Agreement should be enforceable by any third party as provided by the Contracts (Rights of Third Parties) Act 1999.

32. Non-assignment

32.1 Neither of the Councils shall be entitled to assign this Agreement or any of its rights and obligations under it without the written consent of the other (which consent the other Council may in its absolute discretion withhold).

33. Disruption

33.1 The Councils shall take reasonable care to ensure that in the execution of this Agreement it does not disrupt the operations of the other Council its employees or any other third party.

34. Health and Safety

34.1 Each Council shall promptly notify the other of any health and safety hazards which may arise in connection with the performance of this Agreement and shall

promptly notify each other of any health and safety hazards which may exist or arise at a Council's premises and which may affect the performance of this Agreement.

- 34.2 While on the Council's premises, the Shared Senior Management Team shall comply with any health and safety measures implemented by the Council in respect of employees and other persons working on those premises.
- 34.3 Each Council shall notify the other immediately in the event of any incident occurring in the performance of this Agreement on the Council's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- 34.4 The Councils shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working on Council premises in the performance of this Agreement.
- 34.5 The Councils shall ensure that their health and safety policy statements (as required by the Health and Safety at Work etc Act 1974) are made available to each other on request.

IN WITNESS of which this Agreement has been executed as a Deed on the first day before written

The Common Seal of East Lindsey District Council was fixed here in the presence of:

Authorised Officer

The Common Seal of Boston Borough Council was fixed here in the presence of:

Authorised Officer

SCHEDULE 1

JOINT CHIEF OFFICER EMPLOYMENT PANEL

Quorum 4

Composition

- 4 members appointed by East Lindsey District Council and 4 members appointed by Boston Borough Council;
- Appointments shall be made in accordance with the Local Government (Committees and Political Groups) Regulations 1989;
- At least one member of the Committee shall be a member of East Lindsey District Council's Executive Board and at least one member shall be a member of Boston Borough Council's Cabinet.

Note: A quorum of 4 must comprise two members (including at least one Cabinet member) from each Council

No member of this Joint Committee shall be appointed to the Joint Appointment Appeals Committee

Substitutions: Each Council shall appoint one named member who may act as a substitute

Terms of Reference:

After the appointment of the First Joint Chief Executive and his or her first appointment of a section 151 officer, monitoring officer and any director the Committee's terms of reference will be as follows:

- (a) The making of recommendations to the full Councils on the appointment and dismissal of the Head of the Paid Service/Chief Executive, or the taking of disciplinary action against him/her;
- (b) The appointment of any Director or Assistant Director and the dismissal of, or the taking of any disciplinary action against any Director or Assistant Director except the Section 151 Officer and Monitoring Officer;
- (c) The making of recommendations to the full Councils on the dismissal of the Monitoring Officer or Section 151 Officer, or on the taking of disciplinary action against him/her.
- (d) Considering and reporting to each Council on any disputes submitted to it in accordance with sections 8 or 11 of the Memorandum of Agreement dated 1 April 2011

Note: In the exercise of these functions the Committee must act in accordance with the Local Authority (Standing Orders) (England) Regulations 2001 including:

Note: The initial review of the Senior Management Structure and appointment to posts will be dealt with entirely by the Joint Head of Paid Service in consultation with both Leaders.

No disciplinary action (other than to suspend) may be taken against the Head of the Paid Service/Chief Executive, Monitoring Officer or Section 151 Officer other than in accordance with recommendations given by a designated independent person (agreed between the authorities and the officer or alternatively nominated by the Secretary of State) in accordance with the requirements of Schedule 3 of the Local Authorities (Standing Orders)(England) Regulations 2015, the requirements of the Standing Orders of each Council in respect of the appointment and removal of senior officers, and the JNC Conditions of Service.

No offer of appointment may be made until notice of the proposed appointment has been given by the proper officer to each Council's executive member and the Leaders have not objected within the time given for response.

Place of Meeting:

Meetings of the Joint Appointments Committee may be held wherever it is considered to be most appropriate depending on the agenda for the particular meeting. The Chairman of the Joint Committee may give directions.

Training:

Members of the Joint Committee shall undertake appropriate training in selection and interviewing skills.

Chairing Joint Appointments Committees:

Chairmanship of the Joint Committee alternates between the two Councils for each meeting

Servicing the Joint Committee:

The Joint Committee may be serviced by staff from either Council

Legislation:

This Joint Committee has been established in accordance with Section 102 of the Local Government Act 1972 (appointment of Committees)

NOTE: In exercising these functions the Joint Committee must have regard to the Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) Regulations 2015

SCHEDULE 2

JOINT APPOINTMENT APPEALS COMMITTEE

Quorum 4

Composition

- 4 members appointed by East Lindsey District Council and 4 members appointed by Boston Borough Council;
- Appointments shall be made in accordance with the Local Government (Committees and Political Groups) Regulations 1989;
- At least one member of the Committee shall be a member of East Lindsey District Council's Executive Board and at least one member shall be a member of Boston Borough Council's Cabinet.

Note: No member shall be appointed to the Joint Appointment Appeals Committee who is a member of the Joint Chief Officer Employment Panel.

A quorum of 4 must comprise two members (including at least one Cabinet member) from each Council

Substitutions: Each Council shall appoint one named member who may act as a substitute

Terms of Reference:

- (a) Determining appeals from relevant persons in respect of decisions of the Joint Chief Officer Employment Panel relating to the appointment of Directors.

Note: In the exercise of these functions the Committee must act in accordance with the Local Authority (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) Regulations 2015.

Place of Meeting:

Meetings of the Joint Appointment Appeals Committee may be held wherever it is considered to be most appropriate depending on the agenda for the particular meeting. The Chairman of the Joint Committee may give directions.

Training:

Members of the Joint Committee shall undertake appropriate training in selection and interviewing skills.

Chairing Joint Appointment Appeals Committees:

Chairmanship of the Joint Committee alternates between the two Councils at each meeting

Servicing the Joint Committee:

The Joint Committee may be serviced by staff from either Council

Legislation:

This Joint Committee has been established in accordance with Section 102 of the Local Government Act 1972 (appointment of Committees)

Note: In exercising these functions the Joint Committee must have regard to the Local Authorities (Standing Orders) (England) Regulations 2001

SCHEDULE 3

East Lindsey District Council and Boston Borough Council Joint Strategy Board

Terms of Reference

Background

East Lindsey District Council and Boston Borough Council entered into a shared workforce arrangement from 1 July 2020. The Agreement remains in force until terminated by either or both of the Councils. To support the joint workforce structure and joint working of the councils, it has been agreed that meetings of the Joint Strategy Board will be held to consider matters of interest, opportunities for joint working and any potential further joint working of the two councils.

Role and function

The Joint Strategy Board is a non-decision making group.

The Joint Strategy Board will have the following roles and functions:

1. Monitoring the shared workforce arrangements
2. To identify, develop and oversee the implementation of, opportunities for the joint and mutually advantageous promotion of, and investment in, each of the authorities' areas by central and local government, other bodies and agencies (including, but not limited to the Environment Agency, the Lincolnshire Enterprise Partnership, Historic England, Highways England, The Arts Council, Sports England and Homes England), Lincolnshire County Council)
3. To consider and develop (if so minded) proposals for the expansion of the Strategic Alliance insofar as that would be consistent with the purposes of this Agreement
4. To identify those issues which arise and are likely to affect the future prosperity and democratic arrangements in both areas and project a joint voice in respect of such matters with the object of ensuring any change benefits to the greatest extent the Councils and their inhabitants
5. Advising on proposals brought forward on shared workforce arrangements and other joint working between the councils
6. To explore areas of Corporate Planning that are of mutual interest
7. To consider areas of innovation and budget efficiencies across both Councils
8. To submit proposals arising from 2 to 7 above through formal decision making process at each council.

Membership/Attendance

The Joint Strategy Board will comprise:

- All Cabinet members of each Council
- The Chief Executive

No substitutions to be allowed

Other officers and/or members may be invited to attend meetings of the Joint Strategy Board by the Chief Executive or by the Leaders of the two Councils (who must agree any such an invitation in advance of the meeting)

Meetings

The Joint Strategy Board will meet on at least four occasions in each year normally in March, June, September and December

The meetings will be chaired alternately by the Leader of each Council.

Administration for the meeting will be undertaken by the Democratic Services Team at each Council

Minutes of each meeting will be prepared by the Chief Executive with fourteen days of the meeting and will be circulated to all members of the Joint Strategy Board. Action points will be prepared by the Chief Executive and will be circulated to all shared managers.

Shared staff shall undertake all actions allocated to them, or shall allocate disseminate those actions to staff for whom they are responsible. Shared staff shall report back to the Joint Strategy Board as required by the Board.

These terms of reference will be reviewed every two years at the first meeting after the start of the municipal year

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Financial savings model

	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30
	Yr1	Yr2	Yr3	Yr4	Yr5	Yr6	Yr7	Yr8	Yr9	Yr10
Total		£m	£m	£m	£m	£m	£m	£m	£m	£m
Annual savings	600,000	1,200,000	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000
Reorganisation budget	750,000									
Cumulative savings	-150,000	1,050,000	2,850,000	4,650,000	6,450,000	8,250,000	10,050,000	11,850,000	13,650,000	15,450,000

Split

Boston 33% 2018 ONS Population 69,366

Annual savings	198,000	396,000	594,000	594,000	594,000	594,000	594,000	594,000	594,000	594,000
Annual costs	247,500									
Cumulative savings	-49,500	346,500	940,500	1,534,500	2,128,500	2,722,500	3,316,500	3,910,500	4,504,500	5,098,500

East Lindsey 67% 2018 ONS Population 140,741

Annual savings	402,000	804,000	1,206,000	1,206,000	1,206,000	1,206,000	1,206,000	1,206,000	1,206,000	1,206,000
Annual costs	502,500									
Cumulative savings	-100,500	703,500	1,909,500	3,115,500	4,321,500	5,527,500	6,733,500	7,939,500	9,145,500	10,351,500

Note: Savings in 2020/21 are shown for 6 months

Note: Yr 1 costs are a prudent assumption for reorganisation costs with pay back within 8 months

Note: Savings do not allow for pay inflation and are therefore prudently undervalued

Note: Incidental costs/savings are not significant to the business case

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APPENDIX C

Mr Timothy Leader
East Lindsey District Council
Room 102
Tedder Hall
Manby Park, Manby
Louth
Lincolnshire
LN11 8UP

Date: 6 May 2020
Your ref:
Our ref: FW/HRJ
Direct 07710 878838/07768 300608
Email: franceswoodhead@eversheds-sutherland.com/
huwrolantjones@eversheds-sutherland.com

By Email only: timothy.leader@e-lindsey.gov.uk

Dear Mr. Leader,

**STRICTLY CONFIDENTIAL AND LEGALLY PRIVILEGED – PROPOSED MERGER OF
BOSTON AND EAST LINDSAY COUNCILS OFFICERS UNDER JOINT CHIEF EXECUTIVE.**

Background

This letter sets out the advice of Eversheds-Sutherland about the proposal of Boston and East Lindsay Councils to appoint a joint Chief Executive, with the aim of future close joint working around a set of shared strategic priorities in a Strategic Alliance. The aim of the arrangement is to create shared capacity for higher performance, improved service delivery, efficiency and economy as well as joint working on strategic infrastructure and other sub regional projects. Each Council will remain separate democratic and political entities. The intention is to approach the Strategic Alliance in an incremental way, starting with the appointment of a joint Chief Executive by 1 July 2020. The next phase will be for the Chief Executive to appoint a joint management team. Further details of the plans are described in the draft report which will be considered initially by the executives for each Council and ultimately by the respective Full Councils. You have also helpfully provided a copy of a draft Memorandum of Agreement.

Advice sought

We have been asked to review the approach taken in the Memorandum of Agreement and in particular whether the arrangement is lawful. If it is lawful, can it be more effectively achieved another way?

Summary of Advice

The arrangements described in the draft report to the Councils and set out in the Memorandum of Understanding are sensible and lawful. They describe a lawful process for appointing a Joint Chief Executive and the development of a joint senior management structure.

The suggested incremental approach has been adopted by other Councils as a prelude to closer integrated collaboration and shared services which has in turn in some cases led to effective new unitary Councils, often as part of wider devolution arrangements which have secured additional local funding, often for infrastructure or transport projects. You will no doubt be aware of the consultation and statutory process required for establishing a new Council. It requires a lengthy lead in time, significant commitment from senior officers and members and engagement with central government to develop the proposals and work out the new statutory powers to be set out in formal regulations.

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In the following sections of this letter we have made some comments and suggestions about the content of the report and agreement. Additionally we have highlighted some of the key employment law and policy issues you need to be mindful of as you implement the changes.

General comments

The draft report sets out a sensible and clear rationale for the proposals. The recommendations to be considered by Full Council agree to enter into the arrangements, appoint a Joint Chief Executive, deal with the allocation of the costs of funding the retirement of the redundant Chief Executive and give delegated authority to the Chief Executive to appoint Chief Officers and undertake and management restructure.

It will be important to take care with the practical steps needed to action these recommendations to ensure that the correct legal procedures to appoint and dismiss Chief Executives and Chief Officers are followed. The detail for this is set out in The Local Authorities (Standing Orders) England Regulations 2001, as amended in 2015 and the revised JNC Conditions of Service.

As well as the appointment of the new Joint Chief Executive by Full Council it will be necessary to follow the standard statutory notification to the Executive members procedure set out in the Regulations and also in Council Standing Orders. There is also reference in the draft report to appointments of a Joint Monitoring Officer and a Joint Section 151 officer which will also need to be in accordance with the process in the JNC Handbook, requiring the approval of Full Council and the statutory notification process. We are happy to advise further on the detail of this if necessary.

Any costs of retirement or salary changes will need to be consistent with Boston and East Lindsay Councils Pay Policies and be reported to and approved by the Full Councils, to comply with the requirements of Section 40 of the Localism Act 2011 and the statutory government guidance. The key issue is to show that the salary or retirement costs comply with the pay policies for the year and represent value for money for taxpayers. The Council will be aware that for some time we have been expecting the implementation of the public sector exit payment regulations, which would cap any severance payment at £95,000. However, given that those regulations have yet to come into play and are unlikely to come into force imminently, given the current pressures on government, this is not an immediate consideration. It may however be a relevant consideration in the context of the Councils' Pay Policy.

The draft report we have seen sets out the expectations of the Strategic Alliance, referring to economic transformation, managing future financial pressures, achieving economies of scale, potential for increased funding, reducing duplication and sharing best practice. These are described in broad terms at the moment. This is understandable and not unusual, in our experience, when local authorities are in the early stages of a strategic alliance. It is however important to consider developing a clear business plan with a budget to assist with providing a robust audit trail in respect of the arrangements. This will also demonstrate to auditors and the public that there has been good use of public funds and show regard to efficiency and economy.

Memorandum of Agreement

The draft agreement describes the initial arrangements for the integrated management structure and the development of the strategic alliance between Boston and East Lindsay. It will be important to keep it under review. The agreement is drafted in sufficient detail for present purposes. We have set out below our general observations which we hope will be helpful in finalising the agreement:-

- In clause 4, it would be sensible to include a reference to Sections 19 and 20 of the Local Government Act 2000. so it is clear that the jointly appointed senior officers can make decisions about executive matters as well as non-executive matters.

- In Clause 5.3, there is reference to the Joint Strategy Board not being a formal joint committee, “unless and until resolved otherwise This means that the committee will be advisory and any decisions will be made by the respective Cabinets or Full Councils as appropriate. Other Councils which have had an incremental approach to strategic alliances or collaboration have also operated with a shadow Joint Committee in the initial stages. As the arrangements develop it can help with embedding the collaborative arrangements and streamlining decision making if there is a joint committee with decision making abilities.
- Clause 6.7 refers to a future agreement between the Councils about the allocation of pension liabilities and is not precise about how pension contributions and deficits will be allocated on the transfer of staff within the shared management team. These costs could be significant and to avoid either Council being faced with an unexpected cost, audit challenge or concerns we suggest that as far as possible these are costed and referred to in a schedule to the agreement.
- You may wish to amend the termination provisions so they are more specific, for example so that termination is only permitted for a fundamental breach of the agreement by one of the Councils before the end of the agreement. Alternatively you could simply have an ongoing right to terminate by choice on giving a suitable period of notice. How long that should be depends on how embedded the relationship is. At this stage the current clause 8.5 which suggests 6 months seems sensible. There is also reference in Clause 8.3 and 8.4 to the possible termination of the agreement if there are proposals to dismiss a particular member of staff either by the employing Council or the other Council, which may create practical and immediate service delivery issues, so you may want to consider removing this as a basis for termination.
- Clause 8.6(b) refers to “using best endeavours to secure an amicable and equitable financial settlement” in the event of termination. We suggest that you consider clarifying how this will be calculated and including that in a schedule in the agreement. For the purposes of this initial phase the calculation could be by reference to the costs and contributions of each Council.
- Subject to consideration of the comments above about the process for termination and calculating exit costs, the current wording in this section of the agreement is workable for the proposal for a shared senior management team.
- Clause 24 refers to Freedom of Information and Data Protection obligations. Care will be needed if each Council shares personal data with each other as part of the arrangements to ensure each Council manages its own obligations in respect of the use, sharing and processing of personal data. This can be achieved by a review of the purposes for which data is held and the development of data sharing protocols. We are happy to assist with more detailed specialist advice if required.

Specific Employment and Staffing Issues

We agreed to provide you with a brief summary of the potential employment issues which arise in respect of the plans to have a shared Chief Executive and senior management team. The report suggests a lawful approach of officers being employed by one Council with their services being made available to the other Council. In our comments below we describe this as the “current employer model”.

In our experience of working on similar projects in the past, one of the challenges facing the two Councils is that the law is slow to catch up with developments on the ground and in particular does not recognise the concept of joint employment. Essentially therefore, employees have to be employed by one or other of the Councils as legal entities and cannot be jointly employed by both Councils and nor can they be employed by a non-legal entity such as a joint committee.

- Employment model

Typically, there are two potential options. One option is the "host authority" model, in which one or other of the two partner councils becomes the employer in law for employees of both councils. The Councils anticipate that this will require a transfer of staff to one or other of the partner Councils, which could trigger the application of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE").

The second option is the "current employer" model. In this model, employees will remain with their existing Council employer but are allowed to work for the partner Council under powers set out in section 113 of the Local Government Act 1972 as part of the merged officer structure.

- Changes to terms and conditions

Any changes to terms and conditions that are necessary to achieve effective service delivery would need to be agreed with individual employees (and possibly trade unions) in advance. This would include matters such as a need to work in a different location, to work different patterns, or to be managed in a different way. Consideration would also need to be given as to how matters such as grievance and disciplinary processes would be utilised for employees working across both Councils.

In most employment situations, terms and conditions can only be varied by agreement between the employer and the employee and this will need to be factored into the process.

- Consultation

Key to any changes and ensuring that the employees are "on board" with the proposed changes is to involve them at an early stage and to be open and transparent with them wherever possible, as to the proposals and the reasons for those proposals and how individuals employees to be affected. This may also involve engaging in consultation with trade union representatives. We can advise further if necessary.

- Equal Pay

The Equality Act 2010 provides equal pay for equal workers between men and women and ordinarily to make a successful claim where individuals believe that they are not being paid the same, they must compare themselves with an individual of the opposite gender employed by the same employer or "associated employer". Again, depending on the level of integration and decision making, it may be possible for employees of one Council to compare themselves with employees of the other Council. This will not in any way act as a barrier to the Strategic Alliance but may raise some legal and wider human resources and industrial relations issues around ensuring parity and fairness. To equal up is likely to be costly, but to equal down may well raise challenging legal issues, assuming employees are not going to be prepared to agree to lower salaries. Again, this is an area that can be looked at in more detail.

- Redundancy

Changes to terms and conditions of employment including changes of location could give rise to redundancy situations and, as you will be aware, the relatively generous redundancy provisions under the Local Government Pension Scheme could have significant financial impact in the event that redundancies are triggered, deliberately or otherwise. It will therefore be necessary to consider the implications of any changes and whether there is a risk of triggering redundancy situations.

In summary, none of these employment issues should act as a barrier or indeed a deterrent to the proposals but we thought it was useful to flag up these issues at this stage so that they can be factored into the Councils' decision making process.

General Comments

Based on our experience of similar collaboration arrangements you may wish to consider the following practical issues:-

- Ensuring detailed, timely and sensitive consultation with staff about the plans.
- An effective clear transparent and consistent communication strategy as the plans are taken forward.
- Member approval should be supported by a business case for the strategic alliance.
- Consideration will need to be given to amending Constitutions and delegations to reflect the alliance arrangements.
- It is important to establish a clear process for delegation of functions and recording of decisions.
- Other Councils have found it helpful to set up officer strategic management boards and individual officer project boards as well as Joint member decision making through Joint Committees, Joint Cabinets and Joint Full Council in the more embedded models. Some Councils still maintain independent decision making for some or all purposes.
- Consideration can be given to each of the Councils acting as host Council for specified purposes. For example, one Council could lead on planning issues, another on general regulatory services.
- Consideration needs to be given to providing officer indemnities to cover the joint working arrangements.

We hope the above comments are helpful and either Huw or I would be happy to assist further if you need anything clarifying or more detailed advice.

Yours sincerely,

Frances Woodhead.

Consultant.

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APPENDIX D

South Norfolk House
Cygnet Court
Long Stratton
Norwich
Norfolk
NR15 2XE

Tel: 01508 533981

Mr Robert Barlow & Mr Phil Drury
East Lindsey District Council & Boston Borough Council
Tedder Hall,
Manby Park,
Louth,
Lincolnshire
LN11 8UP

11 May 2020

Dear Robert

Thank you for sending through the information regarding the proposal to deliver a Strategic Alliance between Boston Borough Council and East Lindsey District Council. Having reviewed the documents and spoken to you, I would like to offer the following observations on the proposal and also a few additional comments which may be useful. These are based on my experience of a similar journey between Broadland and South Norfolk Councils over the past couple of years and also the learning we took from others who have been on this journey before us.

Financial Implications:

1. In the proposal there is an assumption that savings of £1.2m per year will be achieved within the first 12 months onwards, this is based on reducing the structure by 33 posts. This equates to an average of just over £36,000 per post including on costs. This therefore indicates that the level of the posts which are to be relinquished are the middle to higher paid roles. This recognises that the lower paid roles are likely to be the frontline employees which are very much still required to deliver services. I believe the £1.2m is an achievable target as it is the streamlining of the shared management where the majority of the savings will be realised. Obviously if the reduction in the number of posts costing £36,000 or above is not achieved then it will require significantly more posts to be relinquished at a lower grade.
2. The financial savings model indicates that half of the savings will be made in 2020/21, as the start of the Strategic Alliance is 1 July 2020 that indicates the posts will have to be relinquished by the end of September to achieve the full six month saving of £600,000. This initially raised a question around the ability to deliver such a tight timetable, however from our conversation I understand that this is achievable due to a number of vacancies currently being held and the recommendations around the Statutory Officer roles.

3. Having discussed the exit costs provided for within the financial model I am satisfied that these are a realistic assumption at this point in time, based on the estimated number of departures.
4. I understand that you have taken into account the impact on the Band D Council Tax Charge of using the population split of 33%/67% to apportion costs and savings to ensure that it doesn't cause any imbalance in the future. In other words, this apportionment is reflective of the apportionment between the Councils of the current combined budgets.
5. Cost of change; based on my recent experience there may be a requirement to increase your cost of change to cover:
 - Increased travel costs between headquarters, however the use of video conferencing which has become mainstay due to the pandemic may mean that this is negated going forwards.
 - Additional costs of democracy relating to the Strategic Alliance in the form of both joint formal and informal Member meetings going forward. (Our experience also led us to aligning Committee cycles across both Councils to ensure joint decisions are made in similar timescales).
 - There may be additional costs associated with further re-structuring of services over the next twenty-four months as teams are brought together and differences in pay grades and terms and conditions are addressed. It is worth bearing in mind that the longer it takes to align terms and conditions and pay there could be an increase in the risk of an equal pay challenge. The Councils also don't want to be disadvantaged in future employee negotiations by agreeing individual elements of a total package in a piecemeal fashion over a long period of time, reducing the ability to negotiate the more difficult elements which are often left to last.
 - It may be beneficial to include a budget to assist staff on their transformation journey and the change in culture, as the Councils form the Strategic Alliance. Assisting staff to move quickly will help to maintain productivity and reduce any reluctance and negativity to change.
6. There may be additional savings from procurement with economies of scale and when services can move to single IT Systems.
7. I confirmed that we had received informal advice from our LG Pension Fund that it was advisable to try to retain the proportion of staff employed by each Council, due to the potential impact on a Council's individual pension liability.

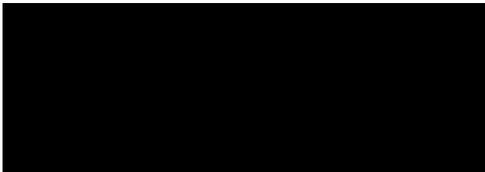
Information Technology:

8. Our telephone conversation confirmed that you have a number of the major IT systems which are on the same platform. This will considerably assist with the longer term wish to review individual services and help to achieve savings more quickly than if there was no conformity, which would bring additional costs as the Councils transferred onto one system.
9. The impact of having a joined-up IT infrastructure will greatly benefit the transformation journey for the staff and prevent frustration building up as new ways of working are introduced.

I hope the above gives you some reassurance that, subject to further consideration around the potential additional costs, the financial savings model appears to be sound, based on the assumptions made in the business case.

I wish you the very best in your exciting journey in forming a Strategic Alliance and if myself and my colleagues can help in the future, please let me know.

Kind regards



Debbie Lorimer
Director of Resources

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served by One Team

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**CHIEF OFFICER EMPLOYMENT PANEL
Wednesday 20th May 2020**

Present:

Councillors Richard Austin, Peter Bedford, Michael Cooper, Anne Dorrian, Paul Goodale, Martin Griggs and Paul Skinner.

Officers:

People Services Manager and Democratic Services Manager

1. APPOINTMENT OF CHAIRMAN

RESOLVED that Councillor Paul Goodale be appointed as Chairman.

2. APPOINTMENT OF VICE-CHAIRMAN

RESOLVED that Councillor Anne Dorrian be appointed as Vice-Chairman.

3. APOLOGIES FOR ABSENCE

No apologies for absence were received.

4. NOTIFICATION OF SUBSTITUTIONS

No notification of substitutes was received.

5. DECLARATIONS OF INTEREST

There were no declarations of interest from the Members of the Panel.

**6. BOSTON BOROUGH COUNCIL AND EAST LINDSEY DISTRICT COUNCIL
STRATEGIC ALLIANCE – SHARING OF STATUTORY OFFICERS**

The Panel considered a report on a proposed creation of a strategic alliance between Boston Borough Council and East Lindsey District Council which was also due for consideration by Cabinet on 20 May 2020 and full Council on 10 June 2020.

As part of the proposed arrangements for the strategic alliance was a proposal for the two authorities to share the three Statutory Officers i.e. Head of Paid Service, Monitoring Officer and Section 151 Officer.

The recommendations contained within the full report on the strategic alliance which fell within the remit of the Chief Officer Employment Panel for consideration were as set out below:

- i) That Robert Barlow becomes Joint Chief Executive/Head of Paid Service of East Lindsey District Council and Boston Borough Council. East Lindsey District Council shall formally employ Mr Barlow, who shall, for the purpose of facilitating the Strategic Alliance, be seconded to Boston Borough Council as Chief Executive and Head of Paid Service under Section 113 of the Local Government Act 1972, effective from 1st July 2020.

Thereafter, East Lindsey District Council will contribute 67 per cent of the cost of Mr Barlow's remuneration and Boston Borough Council will contribute 33 per cent of the same. Consultation should commence immediately.

- ii) That Michelle Sacks becomes Joint Monitoring Officer of East Lindsey District Council and Boston Borough Council. Boston Borough Council shall formally employ Ms Sacks, who shall, for the purpose of facilitating the Strategic Alliance, be seconded to East Lindsey District Council as Monitoring Officer under Section 113 of the Local Government Act 1972, effective from 1st July 2020.

Thereafter, East Lindsey District Council will contribute 67 per cent of the cost of Ms Sack's remuneration and Boston Borough Council will contribute 33 per cent of the same. Consultation should commence immediately.

- iii) That Paul Julian becomes Joint S151 Officer of East Lindsey District Council and Boston Borough Council. Boston Borough Council shall formally employ Mr Julian, who shall, for the purpose of facilitating the Strategic Alliance, be seconded to East Lindsey District Council as S151 Officer under Section 113 of the Local Government Act 1972, effective from 1st July 2020.

Thereafter, East Lindsey District Council will contribute 67 per cent of the cost of Mr Julian's remuneration and Boston Borough Council will contribute 33 per cent of the same. Consultation should commence immediately.

The People Services Manager, based on the proposed termination date, outlined the likely process by which the current Chief Executive of Boston Borough Council would leave the authority, including timescales, potential cost implications and associated risks to the Council with possible mitigation.

Reference was also made to full Council being required to approve settlement packages in accordance with the provisions of the Localism Act 2011 and Pay Policy. An option that could be explored with the Monitoring Officer was whether full Council could delegate to COEP

Panel Members raised concerns regarding the potential financial costs for the Council which did not correlate with the financial information contained in the report in respect of year one costs.

There was discussion regarding the process for the strategic alliance and Panel Members reached a consensus that the proposal in the report was not the preferred option. The agreement for creating a strategic alliance should be considered in the first instance, involving scrutiny and public consultation, and then, if agreed, a national recruitment campaign undertaken to appoint a Chief Executive with the appropriate skills, knowledge and experience to lead a joint authority.

Whilst some Members knew Mr. Barlow, others did not and the view was expressed that it was difficult to make such an important decision without having all the relevant

information on which to base it. A meeting between the Panel and Mr. Barlow or having sight of his CV would have been helpful.

Having considered the report and information available and debated the issues in detail the Panel;

RESOLVED

That it be recommended to Full Council that the proposed appointment of Robert Barlow as Joint Chief Executive/Head of Paid Service of East Lindsey District Council and Boston Borough Council, and the proposed arrangements for the sharing of Boston Borough Council's Statutory Officers, i.e. the Section 151 Officer and the Monitoring Officer with East Lindsey District Council be not progressed at this time for the reasons set out below:-

This Council agrees that a Strategic Alliance needs to be the best fit for Boston, therefore, at this time we propose that we do not proceed with the options before us.

This council currently has sufficient resources to maintain adequate levels of service delivery and to balance the budget in 2021/22 and given those facts, we propose the following to Full Council:

- **That exploratory discussions are held with elected members and officers of other local authorities who are potential partners in such an alliance**
- **That Scrutiny committees are kept fully involved and appraised of all such discussions**
- **That any future decisions are made after full consultation with elected members, along with the residents of the Borough of Boston.**

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Frequently Asked Questions

Why now?

Many people have asked this question.

Discussions between the two Council Leaders have reached a point where they feel they have a proposal that should be considered formally by both Councils. Doing this now enables the Councils to position themselves well to deliver their ambitious corporate plans and also respond to the ongoing financial challenges both Councils face.

It has also become clear to both Councils that the impact of the effects of Covid19, will not last for months or even years, but most likely decades. How both Councils can respond to the recovery process and continue to provide great services to our residents and wider communities is something we will need to focus on for several years. The merger of the workforce means we can share from each councils' best practice, create capacity within our teams and provide a bigger and louder platform from which we can collectively promote the best we have in our locations.

Can you please tell us when these merger discussions first commenced?

Discussions between the Councils have been underway politically over the past 18months but have gathered pace in the past 3 months resulting in Leaders feeling confident to take a report forward to progress this at this time.

May I ask what does this actually mean?

Both Councils will continue to exist as they do now and take their own decisions independently but the services will be provided by a single team of staff. The Council's existing workforce will be merged to create a single workforce.

Why so quickly?

Discussions have been ongoing between the Leaders of the two Councils for around 18-months – so this isn't something that has come along in 2 minutes.

Moving at pace now this has been announced will do three things:

- 1) It will provide certainty for colleagues at a senior level quickly
- 2) It will support both Councils in addressing some of the financial challenges they face.
- 3) It will support the Councils in getting on and delivering their ambitious Corporate Plans.

A merger such as this needs public consultation doesn't it?

The governance arrangements of each Council will remain the same – each will retain their own Councillors, Constitution and decision making arrangements. The shared workforce is not a matter that requires public consultation.

What are the top three benefits for residents, communities and businesses?

1. Greater resilience for the two Councils to deliver services to our communities;
2. A louder and stronger voice and platform when it comes to government resource;
3. Significant revenue savings and increased capacity to deliver Corporate Priorities.

FINANCE

What savings are to be achieved?

£15,450,000 over 10 years – a significant sum.

2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30
Yr1	Yr2	Yr3	Yr4	Yr5	Yr6	Yr7	Yr8	Yr9	Yr10

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Total	£m	£m	£m	£m	£m	£m	£m	£m	£m	£m
Annual savings	600,000	1,200,000	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000
Annual costs	750,000									
Cumulative savings	-150,000	1,050,000	2,850,000	4,650,000	6,450,000	8,250,000	10,050,000	11,850,000	13,650,000	15,450,000

Can we have / see a breakdown of how these savings have been calculated?

The report that will be considered by both Executive Boards/Cabinets is published and here is the link to the report <http://modgovel/ieListDocuments.aspx?MIId=6285&x=1>

The breakdown of the savings are set out in another question.

Will you be disclosing how the 1.8m annual saving is made up?

It's based on savings achieved by other Councils who have already done this. Some will come from staff savings and some from other spend such as procurement and contract spend. Staff and Members will have options on the detail of savings and whether to reinvest in services.

Surely this will fail and the savings won't be realised?

Our experience suggests otherwise; as does the experience of many other Councils which have undertaken workforce mergers. ELDC have now realised over £20m of savings through PSPS. The approach BBC and ELDC are taking is a proven model.

Savings won't happen.

There should be no doubt. We have experience of this working in CCTV, building control and waste collection. A proven concept that's already within our organisations.

East Lindsey is a cash rich council, unlike Boston. What will happen to our (ELDC) reserves?

This is not a merger of two Councils. As such, each organisations finances and assets will be owned by each individual council.

STAFFING

The cost of making this happen and paying off key staff is a lot of money.

The cost of setting PSPS up was £4m and that has paid back 5 fold. A great success. The cost of this proposal is much less leading to an even higher return.

The return on investment is significant and quickly recovered in 8 months.

Are the savings all about removing staff?

No – they will be delivered through operational efficiencies on the whole. As Leaders we've been clear that the approach should be one that is positive for our teams. There will be a senior management review at the outset with teams then merging over the following two years. The aim is to do this with minimum impact on staff. Both organisations have a natural turnover in staffing and both carry vacancies at present – both these factors will enable the merging in a way that is positive for colleagues.

A joining of work forces must mean less staff?

It will mean less staff but as mentioned in response to an earlier question, we hope to do this through managing existing vacant posts and vacancies that arise within our organisations and we believe this is possible. With savings being made, it would also result in re-investment in Council priorities. This might include, for example, a reduction of staffing in one area (through vacancy management) but an increase in another.

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Will you be inviting people nearer to retirement to ask for Voluntary Redundancy?

Not at this time but it may be something we consider in the future. Both Councils are currently carrying vacancies in their staff structure and there is a natural turnover as people leave the organisations. Where vacancies do arise we'll carefully consider whether recruitment is needed. In addition to a staffing saving, a proportion of the saving we'd hope would come from new and more efficient ways of working between the two Councils.

Will there be any pressure for older people to think about retiring early?

Neither Council would put pressure on our colleagues in that way or operate in a way that would undermine our commitments to meeting the Equality Act. The skills and experience of our people will be invaluable as we move forward together to deliver services in the best way. The opportunity for us collectively is to take what we have and make it stronger.

Are you planning to outsource back office departments such as HR, Revs and Bens, Finance and IT to PSPS?

No discussions have taken place in regard to this. Whilst we can't say for sure this won't happen, it would be for both Councils to agree to this approach.

Since ELDC do not have back-office staff, there is no possibility to merge our service area. Therefore, can they confirm if we are to be out sourced? And if so, whether TUPE would come into force?

This isn't something that has been considered. We're in the early stages of planning to bring the organisations together and a number of political hurdles still lie ahead for our Leaders.

If Councils agree to the merging of workforces over the coming years, the way in which services such as Finance, HR, Revs and Bens, ICT and Customer Contact (those provided to ELDC by PSPS) are delivered in the future will clearly need to be considered at both Councils. This doesn't automatically mean PSPS is the solution and we will need to look at a range of options.

So are the remaining CMT posts exempt from this merger or are they being looked at too?

If approved, there will be three phases to the merger:

- 1) The appointment of the three Statutory Officers on June 10,
- 2) The Appointment of a shared Management Team by end of Oct
- 3) The merging of services over the following 2 years – and all teams will have the opportunity to shape what those services will look like.

It would be for the Head of Paid Service (the Chief Executive) to bring forward a proposed structure for the Management Team.

Will staff get paid more?

Working for two Councils isn't a reason to increase pay. Any pay changes will be linked to new roles and their level of responsibility, pay alignment and market comparison. This must all be done within the overall cost envelope to ensure savings agreed by Council are delivered.

As there are likely to be some discrepancies between ELDC and BBC salaries, terms and conditions, will these be homogenised over the staff merger period so all staff are on equal terms? I'm thinking salaries, holiday allowances, pool cars and so on.

I think it's fair to say there are more similarities than discrepancies. The decision for Councillors only concerns the appointment to three roles. A larger geography doesn't automatically lead to increased pay. There will however be a number of service reviews during the first few years and these reviews will allow Councillors and Officers to design services that are better for residents. Where this happens it will provide us with an opportunity to look at how we structure and how those roles should be remunerated. This is no different to what we do now. Most staff will notice very little difference to their current roles or duties for some time and will remain employed by their current employer.

I'd like to know how people will be appointed to statutory officer roles and what exactly would be involved. Hardly makes sense to make such a huge decision without people being properly informed or having any say?

The Executive/Cabinets of both Councils will consider the proposal in May and both Councils in June (if approved by each Executive/Cabinet). The appointment to the three statutory officer posts will be a decision for Council.

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Given the disparity in sizes of comparable teams across the two Councils, how will resource be shared between two authorities?

Decisions around structures will form part of individual service reviews over the next two years. Colleagues will work with Service Managers to consider how best to deliver the service to the two Councils.

OTHER MATTERS RAISED

Is this a reaction to the Unitary and Devolution Government White Paper?

No, but it does position the Councils well for the future.

Is there the potential for other districts to merge?

Never say never, but at this time it's very much a formal relationship being developed between Boston and East Lindsey Councils.

Will BBC employees have to move to Horncastle Offices?

No. That isn't the plan. It might be that as teams merge an occasional visit to a neighbour's office might be required. Technology means we don't need to be fixed to an office location anymore.

(ELDC) Will the Public Sector Hub with College project still proceed?

Yes, that's our intention. The planning application has been submitted and our ambition remains to be on site later this year with the College opening in Sept 2021, with the Council and partners moving in shortly thereafter.

**BOSTON BOROUGH COUNCIL AND EAST LINDSEY DISTRICT COUNCIL
STRATEGIC ALLIANCE**

Following debate, it was proposed and seconded that there be at least a 6-month period before proceeding with the proposals for a Strategic Alliance.

It was then proposed and seconded that the recommendations contained in the report be put.

The original proposal was put to the vote and, with the Chairman's casting vote, it was:

RESOLVED

That it be recommended to Full Council that:

This Council agrees that a Strategic Alliance needs to be the best fit for Boston, therefore, at this time we propose at least a 6-month period before proceeding with the proposals before us.

This Council currently has sufficient resources to maintain adequate levels of service delivery and to balance the budget in 2021/22 and given those facts, we propose the following:

- **That exploratory discussions with Elected Members and Officers should continue for at least 6 months;**
- **That Scrutiny committees are kept fully involved and appraised of all such discussions;**
- **That any future decisions are made after full consultation with elected members, along with the residents of the Borough of Boston.**

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