

**PROPOSAL TO PROVIDE CONSENT FOR CAMBRIDGESHIRE AND  
PETERBOROUGH COMBINED AUTHORITY TO BORROW FOR ITS NEW  
FUNCTIONS**

*To:* **General Purposes Committee**

*Meeting Date:* **2 March 2018**

*From:* **Chief Finance Officer**

*Electoral division(s):* **All**

*Forward Plan ref:* **N/a**

*Key decision:* **No**

*Purpose:* **This report provides the Committee with the background to the request from the Combined Authority to each of its constituent councils to provide consent to borrow for any of its functions in accordance with section 23(5) of the Local Government Act 2003.**

*Recommendation:* **To consider the request to consent being given on behalf of Cambridgeshire County Council for Cambridgeshire and Peterborough Combined Authority to borrow for any of its new functions.**

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<b>Reason for urgency</b>	<p>The Combined Authority has been advised that there is only a narrow window to confirm to the Ministry of Housing, Communities and Local Government (MHCLG) that it has the consent of all its constituent authorities to additional borrowing powers. In order to be ready for a parliamentary proceeding as early as 5 March 2018, the last date for confirmation of consent is 2 March 2018.</p> <p>The monitoring officer to the County Council has advised that the most appropriate course for the County Council to grant the requested consent is via resolution of the General Purposes Committee (“catch all powers”), requiring an additional meeting.</p> <p>If Cambridgeshire &amp; Peterborough Combined Authority is unable to get their consent in place in time, it is likely that the Order would go ahead, but without CPCA being included.</p>
<b>Reason for lateness</b>	<p>The legislative timescale, draft statutory instrument and requests for consent from the MHCLG and Combined Authority were not available as at previous meeting dates. A final deadline for consent of 2 March was set out at the end of February.</p>

## 1.0 PURPOSE AND BACKGROUND

- 1.1. At Autumn Statement 2016, the government announced that it would give mayoral combined authorities powers to borrow for their new functions and to invest in economically productive infrastructure, subject to agreeing a borrowing cap with HM Treasury.
- 1.2. This will align the combined authorities’ financial powers with their new responsibilities, and give them the freedom to invest in important priorities such as economic development and regeneration. Each combined authority’s new powers to borrow will be specified in regulations under section 23(5) of the Local Government Act 2003.
- 1.3. The limits on combined authority borrowing will be expressed in terms of annual caps on external debt. Capping external debt, rather than prudential borrowing, will give the combined authorities greater flexibility to manage capital programmes across financial years.
- 1.4. Whilst the Combined Authority has no existing debt or any immediate borrowing requirement, significant investment will be needed for major infrastructure works from financial year 2020/21.
- 1.5. The Combined Authority is considering what the optimal funding structure will look like for these programmes as part of its investment strategy. Whatever the ultimate funding mechanism, the Combined Authority needs to have the facility to borrow the full amounts of these investments in place at that time.

1.6. There are two strands to the process of putting in place the borrowing powers:

- (a) The setting of the Borrowing Cap through an agreement with HM Treasury (HMT), and
- (b) The drafting and laying before parliament of the relevant Statutory Instrument (Ministry of Housing, Communities and Local Government (MHCLG))

## **2.0 SETTING OF THE BORROWING CAP**

- 2.1. The Director Public Services, HM Treasury wrote to the Combined Authority's Section 151 Officer expressing her formal approval of the Cambridgeshire and Peterborough Combined Authority Agreement and Debt Cap to 2019-20, which was based on the Combined Authority's submitted financial plans, and asked the S151 Officer to reply with consent to the agreement coming into effect.
- 2.2. The Section 151 Officer has replied to the Director, confirming consent to the debt agreement on behalf of the Combined Authority.
- 2.3. It is the intention of HMT for the Combined Authority's new borrowing powers to be in place for the next financial year.
- 2.4. The debt cap agreement will be reviewed before the end of 2019-20 and discussions will continue about an agreement beyond 2019-20.

## **3.0 MAKING OF THE STATUTORY INSTRUMENT**

- 3.1. The Ministry of Housing, Communities and Local Government (MHCLG) have provided draft of the Statutory Instrument to allow borrowing to be made under S23(5) of the Local Government Act 2003.
- 3.2. S23(5 and 6) of the Local government Act 2003 state that powers will be conferred on a combined authority to borrow money for a purpose relevant to its transport functions or in relation to any other functions of the authority that are specified, *only with the consent of its constituent councils*.
- 3.3. The Combined Authority is looking to put the requisite delegations in place so that delegated consent can be given quickly.

## **4.0 IMPLICATIONS FOR CAMBRIDGESHIRE COUNTY COUNCIL**

4.1 The Combined Authority have set out in correspondence that:

- Liability for any borrowing rests with the combined authority – this was always the case for any transport borrowing, and will be the case for any additional borrowing for other functions as allowed by the new statutory instrument.

- Consent of constituent authorities is sought to the making of the SI but that doesn't render them liable.
- Arranging for CAs to undertake their own borrowing avoids constituent councils undertaking borrowing on behalf of the CA – and makes the CA properly and transparently responsible for that borrowing
- Arrangements for repayment would be a matter for the Combined Authority to consider, as the body corporate incurring the expenditure. The Constituent Authorities could not be looked to in the event of default as no aspect of relevant legislation would compel contribution without express agreement.

## **5.0 ALIGNMENT WITH CORPORATE PRIORITIES**

- 5.1. Developing the local economy for the benefit of all  
There are no significant implications for this priority.
- 5.2. Helping people live healthy and independent lives  
There are no significant implications for this priority.
- 5.3. Supporting and protecting vulnerable people  
There are no significant implications for this priority.

## **6.0 SIGNIFICANT IMPLICATIONS**

- 6.1. Resource Implications  
There are no County Council-specific resource implications to this decision.
- 6.2. Procurement/Contractual/Council Contract Procedure Rules Implications  
There are no significant implications within this category.
- 6.3. Statutory, Legal and Risk implications

The Statutory Instrument to allow borrowing is to be made under s23(5) of the Local Government Act 2003.

- 6.4. Equality and Diversity Implications  
There are no significant implications within this category.
- 6.5. Engagement and Communications Implications  
There are no significant implications within this category.
- 6.6. Localism and Local Member Involvement  
There are no significant implications within this category.
- 6.7. Public Health Implications

There are no significant implications within this category.

<b>Implications</b>	<b>Officer Clearance</b>
<b>Have the resource implications been cleared by Finance?</b>	T Kelly
<b>Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the Head of Procurement?</b>	n/a
<b>Has the impact on statutory, legal and risk implications been cleared by MO</b>	Q Baker
<b>Have any engagement and communication implications been cleared by Communications?</b>	n/a
<b>Are there any Localism and Local Member involvement issues?</b>	n/a
<b>Have any Public Health implications been cleared by Public Health</b>	n/a

<b>Source Documents</b>	<b>Location</b>
S23 Local Government Act 2003	<a href="https://www.legislation.gov.uk/ukpga/2003/26/section/23">https://www.legislation.gov.uk/ukpga/2003/26/section/23</a>
Draft Statutory instrument	c/o Finance Team, Octagon First Floor