

CUMBRIA COUNTY COUNCIL

Minutes of a Meeting of the **Cabinet** held on **Thursday, 23 September 2021 at 10.00 am at Cumbria House, Botchergate, Carlisle**

PRESENT:

Mr SF Young (Leader)
Mrs PA Bell
Mrs A Burns
Ms D Earl
Mrs S Sanderson
Mr DE Southward
Mr P Thornton
Mrs C Tibble
Mrs J Willis

Officers in attendance:

Deputy Chief Executive and Executive Director - People, Executive Director - Corporate, Customer and Community Services, Chief Fire Officer, Director of Finance (Section 151 Officer), Chief Legal Officer (Monitoring Officer), Leadership Support Officer - Labour Group, Professional Lead - Democratic Services and Communications Business Partner

PART 1 ITEMS CONSIDERED IN THE PRESENCE OF THE PUBLIC AND PRESS

126 APOLOGIES FOR ABSENCE

An apology for absence was received from Mr K Little.

127 DISCLOSURES OF INTEREST

Mrs C Tibble declared a non-pecuniary interest in Agenda Item No 15 – Award of Contract for the supply of Short Breaks Services for Children and Young People with Disabilities, as she is a Board Member and her daughter works at West House.

128 EXCLUSION OF PRESS AND PUBLIC

RESOLVED, that the press and public be excluded during discussion of Agenda Item No 15 – Award of Contracts for the supply of Short Breaks for Children and Young People with disabilities by virtue of Paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972, as this report contains exempt information relating to the financial or business affairs of any particular person (including the authority holding that information).

The Leader informed Cabinet that in addition, advice had been received that due to the reliance on the Part II advice in respect of any potential discussion on Item 8 – it was preferable to take the whole paper into Part II today. It was therefore agreed that the whole of Agenda Item No 8 – Potential Claim for Judicial review against the decision of the Secretary of State in respect of Local Government Reorganisation in Cumbria would be taken in Part II, as this report contains exempt information in respect of which a legal claim to professional privilege could be maintained in proceedings .

129 MINUTES

RESOLVED, that the minutes of the meeting held on 22 April 2021 be agreed as a true record and signed by the Chair.

130 STATEMENTS BY THE LEADER OF THE COUNCIL AND CABINET MEMBERS

The Cabinet Member for Health and Care Services made a statement about the current Health and Social Care Crisis. The social care system in Cumbria was currently under exceptional pressure due to increasing demand for support and people presenting with higher levels of need, in part due to the impact of the pandemic on the NHS. Alongside this were significant challenges with recruitment and retention of staff across the sector due to a range of factors including the pandemic, mandatory vaccination, wage increases in competing sectors and the loss of international staff. As a result, the county was dealing with a range of issues:

For context, through the pandemic there had been a 30% increase in the overall volume of social care support commissioned by the council. And right now, the number of hours of 'support at home' care that the Council was trying to commission was more than double what it was last year.

The situation was not unique to Cumbria, with many other Local Authority areas experiencing similar challenges, but the severity was unprecedented.

The Cabinet Member outlined the County Council's response to this.

The Cabinet Member for Children's Services advised members of award ceremonies currently taking place for Foster Carers. The awards were for services to Foster Caring for periods ranging from 5 years – 35 years. Cumbria had a number of Foster Carers with over 35 years service and she wanted to place on record the Council's thanks to these individuals, for their dedication to the service.

131 PUBLIC PARTICIPATION

There were no public questions, petitions or statements made at this meeting.

There were no referrals from Local Committees or Scrutiny to this meeting.

132 UPDATE ON LOCAL GOVERNMENT REORGANISATION IN CUMBRIA AND THE STRUCTURAL CHANGE ORDER

Members considered a report from the Chief Executive, which provided an update on the initial preparatory work for local government reorganisation in Cumbria (LGR) following the Secretary of State's announcement on 21 July, including the agreement that the Chief Executive should undertake the role of Senior Responsible Officer (SRO) for LGR in Cumbria and the process for the drafting of the Structural Change Order (SCO).

The proposals for reorganisation would be implemented by way of a SCO which must be approved by both Houses of Parliament and which would legislate for the key elements of the reorganisation including the setting up of the two new unitary authorities, initially as shadow authorities, elections to those new shadow authorities and the key responsibilities of the existing councils and the two new authorities in relation to the implementation of the reorganisation.

The SCO would provide for the establishment of two joint committees (one for the East and one for the West) which would be responsible for implementation prior to the shadow authorities coming into existence which would happen following elections to those authorities which would be held on 5 May 2022.

The Secretary of State was responsible for the drafting of the SCO and would decide the final form of the SCO to be laid before Parliament but had asked the 7 Councils in Cumbria to provide details of preferences and views from political groups in relation to some elements of the SCO including the names of the two new authorities, election arrangements, warding and the joint committee arrangements. MHCLG (to be the Department for Levelling Up, Housing and Communities – DLUHC) had requested these preferences be provided in the week commencing 20 September. MHCLG had also confirmed it would share the draft SCO with the 7 Councils for comment before it was laid before Parliament. It was currently anticipated this would be in the week commencing 4 October.

The three main political groups on the County Council had been asked to provide feedback to enable the preferences and views to be provided to MHCLG within the time frame requested. A similar process was being undertaken in parallel to collate the preferences and views of the main political groups at each of the 6 District Councils.

The Chief Executive would keep Cabinet updated on the progress of discussions with MHCLG on the draft SCO.

RESOLVED, that Cabinet

- (1) note the details of the report including the agreement that the Chief Executive should act as SRO and endorses that decision.
- (2) note the process for the drafting of the SCO and the proposals in relation to providing the preferences and views requested by MHCLG.

133 2021/22 REVENUE AND CAPITAL BUDGET MONITORING REPORT TO 30 JUNE 2021

Cabinet considered a report from the Director of Finance (Section 151 Officer) which set out the Council's forecast financial position at 30 June 2021, Quarter 1; covering the Revenue Budget, Capital Programme and Treasury Management.

The Deputy Leader took members through the key messages and recommendations contained within the report.

The Deputy Leader commented that the County Council would still be producing a 5 year Medium Term Financial Plan (MTFP), regardless of the plans for local government reform in Cumbria. The reason for this was that the Council Services would still carry on into the future of the

context of the MTFP would still be needed to enable budgets to be set going forward.

The Leader of the Council agreed this was a positive report, but he was mindful that going into winter the need for Council services may increase if cases of Covid 19 and flu started to rise, especially given the fragility of the care market and the inability to recruit staff.

RESOLVED, that Cabinet

- (1) Note the revised Revenue Budget at the provisional outturn for monitoring purposes of £423.971m as a result of the transfers from the COVID-19 Emergency Grant Earmarked Reserve and agreed transfers to and from reserves (set out in Appendix 1 of the report);
- (2) Note the forecast Revenue Budget outturn is breakeven at the year-end, with the assumptions as set out in this report;
- (3) Note progress in delivering the savings for 2021/22 of £22.006m; a total of £17.288m (79%) of savings are forecast to be delivered by 31st March 2022;
- (4) Approve the transfer of £0.596m to the Financial Volatility Reserve;
- (5) Approve the following amendments to the Capital Programme:

	2021/ 22	2022/ 23	2023/ 24	2024/ 25	2025/ 26	Total 2021- 2026
	£m	£m	£m	£m	£m	£m
Changes to existing scheme - funded by external Grant / Contribution (set out in paragraph 55)	2.527	0.431	1.036	0.000	0.000	3.994
New Schemes - funded by external Grant / Contribution (set out in paragraph 56)	0.209	0.200	0.000	0.000	0.000	0.409
Virements (set out in paragraph 58)						
Infrastructure Deficit Support	0.000	(0.100)	0.000	0.000	0.000	(0.100)
Kendal Northern Access Route (KNAR)	0.000	0.100	0.000	0.000	0.000	0.100
Total of Q1 Changes - for Cabinet approval	2.736	0.631	1.036	0.000	0.000	4.403

- (6) Recommend to Council the following amendments to the Capital Programme:

	2021/ 22	2022/ 23	2023/ 24	2024/ 25	2025/ 26	Total 2021- 2026
	£m	£m	£m	£m	£m	£m
Re-profile (set out in paragraph 57)	(26.72 0)	26.720	0.000	0.000	0.000	0.000
New Schemes – funded by external Grant / Contribution (set out in paragraph 55)	0.253	0.500	0.000	0.000	0.000	0.753
New Schemes – funded by internal revenue contribution (set out in paragraph 56)	0.100	0.000	0.000	0.000	0.000	0.100
Sub Total of Q1 Changes– for Cabinet to recommend to Council	(26.3 67)	27.22 0	0.000	0.000	0.000	0.853

- (7) Note the forecast outturn for the Capital Programme 2021/22 of £128.441m against a current capital budget of £128.441m (excluding Accountable Bodies) resulting in no variance being reported at Q1, as set out in Table 57 paragraph 13.

134 CORPORATE PERFORMANCE MONITORING REPORT – QUARTER 1 2021/22

Cabinet considered a report from the Director of Finance (Section 151 Officer), which provided members with a progress update on corporate performance, incorporating progress on the Council Plan Delivery Plan 2021/22 for the three month period from 1 April 2021 to 30 June 2021.

The report focused on the Council Plan Delivery Plan for 2020/22 that was agreed by Cabinet in September 2020. The Council Plan Delivery Plan was agreed in September when the acute phase of our initial response to COVID-19 had passed, and reflected a focus on recovery from COVID-19. It was recognised the usual annual plan would be more effective as a longer plan therefore contained actions with milestones up to March 2022.

The Council Plan Delivery Plan for 2020/22 set out a series of actions and indicators, in the context of COVID-19 recovery, relating to how the Council would deliver the three outcomes and implement the new ways of working as identified in the Council Plan 2018-22, which was agreed by Council in February 2018. Despite the shift in focus from COVID-19 recovery to response during the later stages of 2020/21 a significant number of actions had been achieved supporting the outcomes within the Council Plan 2018-2022.

The Leader said officers would welcome feedback on the new layout of the report.

Cabinet members asked for their thanks to be recorded to the Highways and IT Team responsible for the implementation of the new highways reporting system. Feedback from the public had been very positive.

The Cabinet Member for Children's Services hoped that the number of offers of work experience made to Children Looked After would increase now that restrictions had been lifted. She also commented that all future councillors in the new unitary authorities would need to be made aware of their responsibilities as Corporate Parents for Looked After Children.

RESOLVED, that Cabinet note overall performance relating to delivery of the implementation of new ways of working and the three Council Plan outcomes, focusing on progress against the actions and metrics identified in the Council Plan Delivery Plan 2020/22 for the Quarter ending 30 June 2021.

135 REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

Members had before them a report which sought approval of the policy document at Appendix 1, which set out how Cumbria County Council would comply with the Regulation of Investigatory Powers Act 2000 (RIPA).

The report also provided Cabinet with an update on surveillance activity since the last report to Cabinet in September 2020. The Council rarely made use of the powers available under RIPA and no authorisations had been applied for or granted in the last year.

The approval of the policy as drafted would ensure the Council's compliance with relevant legislation and guidance. Ensuring that an up to date and accurate policy and guidance was available would assist the Council to balance the needs of undertaking work to safeguard individuals and local communities whilst ensuring that it did not unnecessarily infringe the human rights of individuals.

RESOLVED, that Cabinet

- (1) approve the attached updated Policy in respect of how Cumbria County Council will comply with the Regulation of Investigatory Powers Act 2000.
- (2) delegates authority to the Chief Legal Officer/Monitoring Officer in consultation with the Leader and Deputy Leader to make

amendments to the policy where required as a result of changes in legislation.

136 PORT OF WORKINGTON MASTERPLAN

Members considered a report from the Executive Director – Economy and Infrastructure which sought the endorsement of Cabinet for a new masterplan for the Port of Workington. The purpose of the masterplan was to identify opportunities to support the continued sustainable development of the Port through new business opportunities and improved infrastructure.

The development of the masterplan was supported by detailed market analysis, constraint mapping and stakeholder engagement and is underpinned by a clear vision.

Alongside the masterplan, work was ongoing to finalise a new 5 year business plan for the Port. It was intended that the business plan bridged the gap between what was happening now and delivery of the masterplan.

Supporting the implementation of the masterplan proactive steps were being taken to promote the Port with prospective customers alongside strengthening existing customer relationships.

Cumbria County Council owned and operated the Port of Workington and had statutory powers and duties as the Harbour Authority under the Workington Harbour Act.

The Port plays an important role in the regional economy, handling around 300,000 m/tonnes of cargo annually, with about 250 cargo vessel movements. Primary cargoes include pulp, wood, cement, pipes, tyres and project cargo. The Port was also the home of the Robin Rigg windfarm operations and maintenance base.

DfT recommended that ports undertake the preparation of masterplans to support the identification of future opportunities and to identify the requirements needed to capitalise on these.

The masterplan would provide a clear basis to plan the further sustainable development of the Port, and would support efforts to secure new business to the Port and grow the contribution it made to the regional economy.

The masterplan would also help define new investment priorities and opportunities for the Port, identifying clear proposals for which commercial or Government funding could be sought

RESOLVED, that Cabinet endorses the Port of Workington Masterplan.

137 AWARD OF FRAMEWORK CONTRACT - SPECIALISED SERVICES IN CARE HOMES

Cabinet considered a report from the Executive Director – People which sought approval to appoint providers who had met the standard required to the Open Framework for Specialised Services in Care Homes from October 2021. These were listed at Appendix 1 in the report.

The Framework Agreement had been commissioned and procured in-line with the Council Plan 2018-2022 Priority for people to be Healthy and Safe and the Council’s Contract Procedure Rules (Part 5H).

The purpose of the Specialised Services in Care Homes Framework was to enable the Council and its Health Partners to work with the Care Homes Sector to rapidly commission services that provided a level of additionality or specialism that was over and above the existing care home commissioning arrangements.

Experience from COVID-19 showed that there was a clear need to be able to quickly step-up specialised services to meet sudden spikes or changes in demand and there was the requirement for local authorities and clinical commissioning groups to support the safe and timely discharge of people who no longer needed to stay in hospital. In addition to this it was expected demand for services which supported hospital discharges would increase again during winter 2021-22.

The existing Open Framework Agreement for the Provision of Older Adults Residential and Nursing Services would continue to operate as normal and would still be used for the majority of standardised care home placements.

RESOLVED, that Cabinet approve the establishment of an Open Framework for Specialised Services in Care Homes (the “Framework”) from October 2021 for an initial period of 3 years, with the option to extend for two further periods of up to 12 months and the appointment of the initial providers referenced in Appendix 1 of this report to the framework.

138 SCHOOL ADMISSION ARRANGEMENTS 2023/24

Cabinet considered a report from the Executive Director – People which set out, at Appendix A, the proposed admission arrangements for Community and Voluntary Controlled schools, for which the county council was the statutory admission authority. The Local Authority (LA) was required to consult other admission authorities on any changes to

the policy, including catchment areas and proposed reductions to published admission numbers (PANs).

The LA must also consult the governing bodies of Community and Voluntary Controlled schools where it proposed to increase or retain the existing Published Admission Number (PAN) for 2023-24. Consultation on the 2023-24 arrangements must take place for a 6-week period between 1 October 2021 and 31 January 2022.

This paper also set out, at Appendix B, the proposed co-ordinated scheme for school admissions in 2023-24, which the LA was required to formulate by 1 January 2022. The LA was not required to consult on the scheme if it had not changed from the scheme adopted for the previous academic year, or where any changes are directed by legislation. No consultation was required for the proposed 2023-24 scheme.

The School Admissions Code 2021 comes into force on 1 September 2021, replacing the School Admissions Code 2014.

The county council retained the role of admissions authority for Community and Voluntary Controlled schools in the county and must determine admission arrangements by 28 February 2022 for the 2023-24 academic year.

Admission arrangements for Community and Voluntary Controlled schools include catchment areas and the criteria that would be applied to applicants in the case of oversubscription.

Voluntary Aided, Foundation, Free schools and Academies had responsibility for determining their own admission arrangements, also including catchment areas and oversubscription criteria.

The county council also retained responsibility for co-ordinating the main admissions round for all maintained schools and academies in the county. It was required to formulate a co-ordinated scheme setting out the various stages in the admissions process by 1 January 2022 for the 2023-24 academic year.

Where changes are proposed to admission arrangements (or at least every seven years where no changes have been proposed), including reductions in PANs (the county council is required to consult.

Proposed Dual Secondary School Catchment Area – West Lakes Academy and Millom School

Members are requested to agree to formal consultation on the creation of a dual secondary school catchment area in the West of the county, as set out in paragraphs 16-20 of the report and illustrated on the map at Appendix E.

Admissions to West Lakes Academy (WLA) had created a challenging position during several of the most recent admissions rounds. Some children living in the primary catchment areas of Gosforth, Seascale and St Bega's schools had been consistently refused places at WLA. This was despite living within the catchment area, and despite WLA exceeding its Published Admission Number in an attempt to meet greater levels of demand.

For the majority affected, the County Council's Home to School Transport Policy determined that, in the event a place at WLA was not available, students were entitled to transport, at the County Council's expense, to their next nearest school, Whitehaven Academy.

What had been apparent during the informal consultation, and in discussion with the families affected and local elected members, was a clear sense of 'place' or 'community' that looked towards Millom rather than to Whitehaven. Yet, for those living 10 or more miles south of Egremont and in the WLA catchment area, Whitehaven Academy had been the only school to which the County Council would provide free transport in the event that a place was not available at WLA. No parent had accepted this 'offer', preferring to cover the cost of transport themselves to their preferred alternative, Millom. Clearly, this had the greatest impact on the least affluent.

Families in this area were in a unique position compared with others in the rest of the county; they were the only ones who were unable to gain a place at their catchment secondary school during the main admissions round. To be clear, the affected families were not seeking favour above others. They had applied for places in their catchment area secondary school but, through a combination of circumstances, had been unable to secure them. They see Millom as part of their community, and Millom School as a 'natural' alternative if they could not access places at WLA.

It was possible that establishing a dual catchment would generate additional revenue costs for the County Council through the provision of home to school transport. Equally, it was possible that there would be no additional cost; parents were likely to continue to apply, as a first preference, for places at WLA, and would accept them if offered. Where demographics allowed, it was unlikely that any new transport liability would arise. Children living in this area would always need to be transported to secondary school at the County Council's expense given the distances involved, whether that be to WLA as of right, Whitehaven Academy as the nearest alternative, or Millom School as part of a dual catchment arrangement. There may, of course, be a cost differential between those three routes given the distances involved and the nature of the transport required.

It was forecast that no more than a single bus would be required at any time between the affected areas and Millom, at an estimated cost of between £61,750 (assuming one feeder vehicle was to be required) and £71,250 (assuming 2 feeder vehicles). Should the need for that bus arise, there may be savings on existing routes, though this was impossible to quantify given the number of variables involved.

RESOLVED, that Cabinet

- (1) Approve the proposed admissions policy for Community and Voluntary Controlled schools at Appendix A to go out to consultation with the required groups as set out in the School Admissions Code 2021, paragraph 1.47;
- (2) Approve for consultation the establishment of a dual secondary school catchment area for Millom School and West Lakes Academy to better support children and families living in the primary catchment areas of Gosforth, Seascale and St Bega's schools;
- (3) Determine the proposed co-ordinated scheme for 2023-24 for all maintained schools and academies in Cumbria, Appendix B;
- (4) Agree the nursery admissions policy for 2023-24 for Community and Voluntary Controlled nursery schools and infant/primary schools providing nursery education, Appendix C;
- (5) Approve, for consultation with the appropriate schools, the proposed definition of relevant areas for admission authorities in Cumbria for the period 2023-24, Appendix D;
- (6) Note that this consultation relates to the policy on admissions to school in September 2023, at which point it is expected that the County Council will have been abolished. The County Council will, however, remain responsible for managing the application process and allocating places until 31 March 2023. This may mean that secondary school offers are made by CCC in March 2023, but that primary school offers are made in April 2023 by the successor authorities on the basis of CCC's admissions policy. The new unitary authorities will subsequently need to establish their own admissions and home to school transport policies;
- (7) Note that a further report will be brought to Cabinet in December 2021 to provide feedback from the consultation and to seek a decision on the adoption of the 2023-24 arrangements.

The meeting adjourned for 5 minutes at 11am and reconvened at 11.05am.

**PART II - ITEMS CONSIDERED NOT IN THE
PRESENCE OF THE PUBLIC AND PRESS**

139 AWARD OF CONTRACTS FOR THE SUPPLY OF SHORT BREAKS SERVICES FOR CHILDREN AND YOUNG PEOPLE WITH DISABILITIES

Mrs C Tibble declared a non-pecuniary interest in Agenda Item No 15 – Award of Contract for the supply of Short Breaks Services for Children and Young People with Disabilities, as she is a Board Member and her daughter works at West House. She left the room at this point.

Cabinet considered a report from the Executive Director – People, which asked members to take decisions relating to the ‘Short Breaks for Children and Young People’ Services.

Between 2017 and 2022, the Targeted Short Break Activities and Specialist Overnight Short Breaks were delivered as one arrangement, and also included the Family Autism Support service.

The Family Autism Support (FAS) service was appended to the Short breaks service (even though it was not a Short Break). FAS was not a statutory service. It was proposed to recommission the FAS service as a standalone contract.

Between 2017 and 2022, three local Parent Advisory Groups (PAGs) received annual grants (valued at £0.02m each), to address unmet local need for the delivery of Targeted Short Break Activities. As the new Framework would be more responsive to local and emerging need, it was proposed to cease these grants, but to maintain the PAGs.

RESOLVED, that Cabinet

- (1) Award the Specialist Overnight Short Breaks contract in Allerdale & Copeland (West lot) to West Cumbria Care and Support-T/A West House for a period of 3 years to start 1 February 2022, ending 31 January 2025, with an option for two extensions of up to 12 months each. The annual value of the of the contract is £385,440 per annum; this amounts to a total maximum 5 year contract value of £1,927,200;
- (2) Approve that the Specialist Overnight Short Breaks services for Carlisle & Eden (North lot) and Barrow & Furness (South lot) be brought in-house, with effect from 1 February 2022.

- (3) Approve the open Framework and the appointment of the providers (Appendix A of the report) to the Targeted Short Break Activities Framework for a period of 3 years to start 1 February 2022, ending 31 January 2025, with an option for two extensions of up to 12 months each. The maximum annual value of the Framework is £1,596,400 per annum; this amounts to a total maximum 5 year Framework value of £7,982,000;
- (4) Delegate authority to approve the appointment of all future providers who are eligible to gain access to this open Framework to the Assistant Director – Strategic Commissioning;
- (5) Delegate authority to award all services called off the open Framework to any Senior Manager Commissioning.

Mrs C Tibble returned to the room at this point.

140 POTENTIAL CLAIM FOR JUDICIAL REVIEW AGAINST DECISION OF THE SECRETARY OF STATE IN RESPECT OF LOCAL GOVERNMENT REORGANISATION IN CUMBRIA

Members had before them a report from the Monitoring Officer which asked Cabinet to consider whether to issue a claim for judicial review against the decision of the Secretary of State to implement the East/West two unitary authority proposal in Cumbria.

Cabinet was recommended to review the legal advice which was contained in Appendix 3 to this report and to determine whether to issue a claim for judicial review against the decision of the Secretary of State.

On 21 July the Secretary of State for Housing, Communities and Local Government announced his decision to, subject to Parliamentary approval, implement the proposal for two unitary councils in Cumbria on an East/West split.

On Monday 9 August the Council sent a pre-action protocol letter (PAPL) to the Secretary of State in respect of a proposed claim by the Council for judicial review of the decision of the Secretary of State to create two new unitary authorities for the county of Cumbria rather than a single unitary covering the whole of the county. The PAPL was also sent to the 6 District Councils in Cumbria as Interested Parties in any claim for judicial review.

The PAPL requested the Secretary of State to respond to the letter by 23 August. The Secretary of State requested an extension to this timescale which was granted. The Secretary of State's response was received on 6 September. A copy of the response was attached as Appendix 2 of the report.

On 25 August there was a special meeting of the Council, called at short notice, to discuss the judicial review at which it was resolved that that this council believes that launching a legal challenge against the proposed Local Government Reform in Cumbria will be a waste of public money and time and that the council should instead focus on serving local residents by working constructively with all partners to ensure a smooth transition to the new unitary authorities. However, as the decision to issue a claim for judicial review is an executive decision, the resolution passed by Council on 25 August was not binding on Cabinet.

Judicial review was the mechanism by which the courts could review the decision-making process of a public body to determine whether a decision was taken lawfully and fairly. The purpose of judicial review was not to examine the decision itself. Judicial review was only concerned with the process by which the decision was reached.

There were four main grounds for bringing a claim for judicial review. These were illegality, irrationality, procedural impropriety and legitimate expectation.

The role of the court in a judicial review claim was not to re-take the decision itself but to look at the decision-making process. The possible remedies were a mandatory, prohibiting or quashing order, a declaration or an injunction. The most common remedy was a quashing order – this meant the public authority would be required to make the decision again following the correct procedure and acting fairly and reasonably taking into account all relevant facts and ignoring all irrelevant facts. The public authority may reach the same decision again.

There was a two-stage process to bringing a claim for judicial review. A claim for judicial review may only be brought with the permission of the court. If the court was satisfied that there was an arguable case for judicial review it would grant permission to proceed to a substantive hearing. The Court could agree to hear both aspects of the application on the same day, with the permission hearing rolling into a substantive one if considered appropriate by the Court.

The court must refuse to grant permission if it appeared to the court to be highly likely that the outcome would not have been substantially different if the conduct complained of had not occurred unless it considered that to do so was appropriate for reasons of exceptional public interest. This was designed to prevent judicial review cases being brought to challenge minor or technical errors that would not make a difference to the outcome.

Strict time limits applied to a claim for judicial review. The claimant must file a claim form promptly and, in any event, within three months of the date on which the grounds for the claim first arose. This would require proceedings to be issued by 20 October 2021 in order to satisfy this time limit.

If the defendant intended to resist the claim it must file an acknowledgement of service within 21 days of service of the claim form together with a summary of its grounds for resisting the claim.

The legal advice Council had received in relation to the potential claim is attached as Part II Appendix 3. Cabinet was recommended to consider this advice and determine whether or not to proceed with the claim.

If Cabinet determined to bring the claim then the Chief Legal Officer had the authority to issue proceedings on behalf of the Council under 15.8(g) of the Scheme of Delegation in Part 3 of the Constitution.

The Secretary of State's decision on 21 July 2021 would result in a major restructuring of local government in Cumbria. It was important that all relevant factors were taken into account in determining such a major decision which would have a long-term impact on the delivery of services to the people of Cumbria.

The Leader of the Council proposed that Cumbria County Council should issue a claim for judicial review against the decision of the Secretary of State, and this was then debated, with a number of views being expressed. On conclusion of the debate this was put to a vote. With 5 votes for, 0 votes against and 4 abstentions it was

RESOLVED, that a claim is issued for Judicial Review against the decision of the Secretary of State to implement the East/West two unitary proposal in Cumbria.

The meeting ended at 11.35 am