

REPORT OF: DIRECTOR OF CORPORATE SERVICES

REPORT TO: EXECUTIVE BOARD

DATE : 14th December 2005

SUBJECT : PROVISIONAL LOCAL GOVERNMENT FINANCE SETTLEMENT 2006/07 AND 2007/08

Electoral Wards Affected :

Specific Implications For :

Ethnic Minorities	<input type="checkbox"/>
Women	<input type="checkbox"/>
Disabled People	<input type="checkbox"/>

Executive Board Decision

Eligible for Call In

Not eligible for Call In (details contained in the report)

1.0 INTRODUCTION

- 1.1 This report provides information about the Secretary of State's provisional Local Authority Revenue Finance Settlement for 2006/07 and 2007/08 which was announced on 5th December 2005. The final settlement figures are expected at the end of January 2006. As part of the move towards three year settlements, for the first time provisional figures are also supplied for the following year, 2007/08.
- 1.2 The Government has also introduced some further significant new features to the system of local government finance:
- 1.2.1 Firstly, a new Dedicated Schools Grant will replace Schools Formula Spending Share (FSS) and be earmarked for schools, although local authorities will still distribute it between schools.
- 1.2.2 Secondly, FSS for other services has been replaced with Relative Needs Formulae (RNF). However, whereas the figures for FSS could be regarded as notional spending amounts, the amounts for RNF are all expressed as a fraction, with all the services together adding to 1. That has been done by the Government to move away from the situation where comparisons are done and FSS amounts used as spending benchmarks. Instead RNF will be solely a figure used in the calculation of formula grant. Comparisons of RNF between years in any meaningful way are no longer possible.
- 1.2.3 Thirdly, the Government has done away with the notional figure of Assumed National Council Tax (ANCT) which was again often used as a benchmark for actual council tax.
- 1.2.4 Fourthly, Formula Grant (Revenue Support Grant and National Non-domestic Rates, but excluding Police Grant – see table in paragraph 2.1) will be distributed in four blocks, a needs block, a resources block, a central allocation (basic amount) and a damping block. More information on this is given in the Appendix.
- 1.3 Additionally information is also provided on the Housing Revenue Account Subsidy determination that was received in November 2005.

2.0 NATIONAL POSITION

2.1 The table below sets out the national position for the 2006/07 and 2007/08 settlement.

	2005/06 Adjusted £M	2006/07 Provisional £M	Variance %	2007/08 Provisional £M	Variance %
AGGREGATE EXTERNAL FINANCE					
Revenue Support Grant (RSG)	2,170	3,360	54.9	4,092	25.5*
Business Rates	18,000	17,500	-2.8	17,500	0.0
Sub-total (see 1.2.4 and Appendix)	20,170	20,860	3.4	21,592	4.0*
Police Grant	3,883	3,931	1.2	4,028	2.5
Total Formula Grant	24,053	24,791	3.1	25,620	3.8*
RSG to specified bodies	63	65	2.6	58	-4.4
Dedicated Schools Grant (DSG)	25,072	26,576	6.0	28,171	6.0
Other Special & Specific Grants	10,235	10,671	4.3	11,234	5.3
TOTAL AEF	59,423	62,103	4.5	65,083	5.0*

* These percentages are those quoted for increases from adjusted 2006/07 amounts

2.2 As can be seen, the increase in total grant, or total Aggregate External Finance, adjusted to compare like with like (see 2.3), amounts to 4.5% in 2006/07 and 5.0% in 2007/08. Corresponding increases in Formula Grant, including Police Grant, amount to 3.1% and 3.8%.

2.3 The main adjustments relate to where specific grants have been transferred into formula grant (for example Residential Allowances and Preserved Rights in social services), where general funding has been transferred to specific grants (e.g. some capital projects) or where additional funding is being provided for new services, such as the introduction of free off peak bus travel for over 60s from 1st April 2006.

2.4 The Government has powers to cap any authority whose budget is excessive or shows an excessive increase. A number of authorities were capped in 2005/06, and the Government has said that for both 2006/07 and 2007/08 it expects council tax increases on average to be less than 5%.

2.5 The "Floors" scheme is continuing as part of the four block approach. The floor guarantees a minimum level of grant increase in Formula Grant, to be paid for by reducing the grant of those authorities who are above the floor. Any authority that provides Education and Social Services will receive no less than a 2.0% increase in Formula Grant in 2006/07 and 2.7% in 2007/08.

3.0 EFFECT ON LEEDS

3.1 The allocation of Formula Grant for Leeds City Council is shown in the table below.

	2005/06 ADJUST- ED £m	2006/07 PROVIS- IONAL £m	VARIANCE 2005/06 - 2006/07 %	2007/08 PROVIS- IONAL £m	VARIANCE 2006/07 - 2007/08 %
Relative Needs Amount		185.3		189.4	
Relative Resource Amount		-38.6		-40.2	
Central Allocation		120.4		123.6	
Floor Damping		-3.0		-2.9	
TOTAL	257.7	264.0	2.5	269.9	3.2 *

* The comparison for 2007/08 is made with an adjusted 2006/07 figure.

- 3.2 Leeds provisional Formula Grant for 2006/07 of £264m is an increase over 2005/06 of £6.3m. Its provisional Formula Grant for 2007/08 of £269.9m is an increase over an adjusted 2006/07 figure of £8.3m or 3.2%. Adjustments are made as described in paragraph 2.3 above. As described above in section 2, the Government is continuing with the "Floors" approach to grant distribution. Leeds is above the floor and loses £3.0m in 2006/07 and £2.9m in 2007/08 to help pay for those authorities below the floor.
- 3.3 In comparison with other metropolitan authorities the overall Formula Grant for Leeds has increased by more than the average in 2006/07 but less in 2007/08, as shown in the table below.

	% Increase in Formula Grant between 2005/06 and 2006/07	% Increase in Formula Grant between 2006/07 and 2007/08
LEEDS	2.5	3.2
Birmingham	2.8	4.7
Bristol	3.3	4.9
Liverpool	2.0	2.7
Manchester	2.8	4.7
Newcastle	2.0	2.7
Nottingham	3.1	5.1
Sheffield	2.2	3.2
Bradford	2.3	3.7
Calderdale	2.8	4.0
Kirklees	2.0	2.9
Wakefield	2.2	2.8
Average Core City	2.6	3.9
Average West Yorkshire District	2.3	3.3
Average Metropolitan District	2.4	3.6
Average England	3.4 *	4.0 *

* England figures here exclude police grant, for comparative purposes

4.0 EDUCATION

- 4.1 As mentioned in 1.2.1 above, from 2006/07 the Government has changed the way it provides funding for schools. Previously schools funding was part of FSS but the Government expected all authorities to pass the increase in Schools FSS on to their schools budget. From 2006/07 the Government has introduced a specific grant called Dedicated Schools Grant (DSG) which will be passed to schools via local authorities. The remaining Education RNF, which relates solely to central LEA functions and Youth and Community, has been combined with Children's Social Services RNF and is now called Children's Services RNF. The amount of DSG means that the Government has reduced Formula Grant by the full amount of the previous Schools actual budgets.
- 4.2 The provisional figures of DSG for Leeds are £361.7m in 2006/07, an increase of 6.5% per pupil, and £378.2m in 2007/08, an increase of 6.6% per pupil. That compares with the national average increases per pupil of 6.8% in 2006/07 and 6.7% in 2007/08. As a further comparison, the minimum funding guarantee increases per pupil are 3.4% per pupil for secondary and special schools and 4.0% per pupil for primary and nursery schools in 2006/07 and 3.7% per pupil for all schools in 2007/08. To protect authorities with rapidly falling rolls, a minimum cash increase of 4% is guaranteed each year. Final allocations of DSG will be based on pupil numbers in January 2006 and be determined by May 2006.

5.0 HOUSING REVENUE ACCOUNT

- 5.1 The draft housing subsidy determination for 2006/07 was issued on 7th November 2005 by the Office of the Deputy Prime Minister ("ODPM") with the final determination due in late December.
- 5.2 Housing subsidy is a notional calculation based on what the Government estimates an authority ought to spend on housing management and maintenance plus capital financing costs, offset by a guideline rental income and assumed mortgage interest receivable. Where this is negative the authority has to pay money to ODPM. Leeds is a negative subsidy authority.
- 5.3 The net impact of the draft determination is a decrease in overall resources of £0.7m as shown in the table below. This comprises an increase in negative subsidy (i.e. a cost) of £1.8m in revenue terms and an additional £1.1m in the capital related Major Repairs Allowance (MRA).

	<u>Final</u> <u>Determination</u> <u>2005/06</u>	<u>Draft</u> <u>Determination</u> <u>2006/07</u>	<u>Change</u>	
Management & maintenance	£80,341k	£89,998k	£9,657k	12.0%
Guideline rent	(£134,592k)	(£145,788k)	(£11,196k)	8.3%
	(£54,251k)	(£55,790k)	(£1,540k)	2.8%
ALMO allowances	£21,417k	£21,417k	£0k	0.0%
PFI	£6,097k	£6,097k	£0k	0.0%
Capital	£24,313k	£24,047k	(£266k)	-1.1%
Negative Subsidy	(£2,424k)	(£4,230k)	(£1,806k)	74.5%
MRA	£31,540k	£32,654k	£1,114k	3.5%
	£29,115k	£28,424k	(£691k)	-2.4%

- 5.4 Additionally, the Government proposes to restrict the average rent rise to no more than 5%, but this would reduce income by £1.2 million compared with the application of rent restructuring. The ODPM have indicated there may be some form of compensation provided, but have not yet specified how this will be calculated or paid.

6.0 RECOMMENDATIONS

- 6.1 Members are requested to note the contents of this report.
- 6.2 A further report will be submitted to Executive Board after the final settlement which is expected at the end of January 2006.

Background Papers

Statement by Minister for Local Government, 5th December 2005.

Consultation Paper issued by the First Secretary of State, The Office of the Deputy Prime Minister, together with accompanying explanatory notes, tables and exemplifications.

Provisional Local Government Finance Settlement 2006/07 & 2007/08 The New Four Block System

The System

- * The Government has introduced a different method of distributing Formula Grant :-
(Formula Grant is sum of Revenue Support Grant, Police Grant and Business Rates)
- * FSS is replaced by Relative Needs Formulae (RNF)
- * New Four Block Model for grant (except police grant) :-
In 2006/07 £20,860m is distributed through the four blocks
 - Part A Relative Needs Amount (needs measured by RNF)
 - Distributes £14,817m in 2006/07 (71% of total)
 - Authority receives an amount depending on how far its needs are above the authority with minimum needs
 - Calculated at different levels depending on which services an authority provides
 - Part B Relative Resource Amount (resource measured by taxbase) -
 - Distributes minus £5,129m in 2006/07 (minus 25% of total)
 - Authority is deducted an amount depending on how far its resources are above the authority with minimum resources
 - Calculated at different levels depending on which services an authority provides
 - Part C Central Allocation (basic amount)
 - Distributes £11,172m in 2006/07 (54% of total)
 - Authority receives a basic amount per head (same for all with same services)
 - Calculated at different levels depending on which services an authority provides
 - Part D Floor damping (ensures minimum increase)
 - The Formula Grant (including police grant) of authorities above the floor is scaled back to pay for those below the floor
- * RNF a notional fraction, solely distributes grant, no longer a notional spending figure
 - meaningful year on year comparisons no longer possible
- * Revenue Support Grant and Business Rates are distributed through the four blocks on the same basis, but then the final Formula Grant figure is split between the two in proportion to the national totals to satisfy legal requirements

REPORT OF DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

REPORT TO EXECUTIVE BOARD

DATE : 14 December 2005

SUBJECT : ACCESS TO INFORMATION - APPEALS

<p>Electoral Wards Affected :</p>	<p>Specific Implications For :</p> <p>Ethnic Minorities <input type="checkbox"/></p> <p>Women <input type="checkbox"/></p> <p>Disabled People <input type="checkbox"/></p>
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<p>Executive Board Decision <input type="checkbox"/></p>	<p>Eligible for Call In <input type="checkbox"/></p>	<p>Not eligible for Call In (details contained in the report) <input type="checkbox"/></p>
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1. PURPOSE OF REPORT

To consider the administrative arrangements for dealing with appeals by Members against a refusal to be given access to documentation in accordance with their statutory and non statutory rights.

2. BACKGROUND

- 2.1 An issue has arisen where a Member wishes to appeal against a refusal by a Director to grant that Member access to information
- 2.2 Members have a number of different legal rights of access to Council information.

Statutory

- The right to inspect and copy any document (in the possession or under the control of the Council) containing material relating to any business **to be transacted** at full Council, a Council committee or sub-committee
- The right to inspect and copy any report or background papers (other than drafts) (in the possession or under the control of the executive) containing material relating to any business **to be transacted** at Executive Board, or any key decision made by an officer.

Non statutory

- The right to inspect documents to keep themselves informed of Council business which relates to their role as a Member (the 'need to know')

- 2.3 There are some exceptions to these rights. The statutory rights of access are limited and exclude access to certain categories of exempt information. The 'need to know' rights are limited so as not to allow a 'roving commission' through Council documents, or access where a Member's motive is 'indirect'.¹ These rights would not normally include rights of access to personal data or private information.
- 2.4 Conversely the courts have said in relation to the 'need to know', that the decision of the Council is the 'final word', subject only to an application for judicial review on the usual public law principles.²
- 2.5 Decisions on whether or not to give access to documents/information are delegated to Directors³. Directors are required to take advice from Legal and Democratic Services before they take these decisions.⁴
- 2.6 A Department has received a number of requests for access to information from a Member, and the relevant Director has refused two of these requests. The Member wishes to 'appeal' against that decision.
- 2.7 The constitution contains a number of provisions relating to 'appeals' against Directors' decisions not to allow access to information. However, they appear contradictory and are ambiguous in some areas

3. APPEALS

- 3.1 The function of determining appeals against any decision of the Council is a '**local choice function**' and has been determined at this authority as an executive function. The decision-making body is designated as the Executive Board (with certain exceptions). There is a delegation of these functions to the Director of Corporate Services,⁵ although the Director is entitled to decline to exercise this delegated authority. The Director of Legal and Democratic Services considers that appeals by a Member against refusal of inspection of documents were not anticipated when this delegation was made, and that this delegation may therefore need to be reviewed.
- 3.2 **The Protocol on Member/Officer Relations** provides that in the event of a dispute about whether a Member has a '**need to know**' the question falls to be determined by the 'relevant committee' ie the committee in connection with whose functions the document is held. With the exception of functions specifically reserved to Council or delegated to Regulatory Panels, this means the majority of appeals would relate to executive functions and therefore Executive Board would be the 'relevant Committee'.
- 3.3 **The Access to Information Procedure Rules** provide for an appeal to an appeals panel of elected Members where Executive Board/Regulatory Panel etc refuse to grant to a Member the right to inspect documents, although it is unclear whether this only applies to documents relating to an item of business to be transacted at such a

¹ R v Barnes Borough Council ex parte Conlan (1938)

² City of Birmingham District Council v O and Another (1983)

³ **By the general delegations to officers (Officer Delegation Scheme (Executive Functions))**

⁴ By the Protocol on Member/Officer Relations

⁵ Part 3, Section 1 of the Constitution

meeting, or whether it extends to where Executive Board has already decided a Member does not have a 'need to know' .

- 3.4 The Director of Legal and Democratic Services considers that the provisions relating to access to information contained within various parts of the Constitution need to be reviewed to ensure they interrelate, are comprehensive and unambiguous and comply with the Freedom of Information legislation.

4. PROPOSALS

- 4.1 Pending a review of the Constitution in this area and to deal with the appeal already submitted, the Director proposes that Executive Board establish a committee of the Board to consider that appeal. The appropriate Departmental Director would report the matter to the meeting with an explanation as to why access had been denied and the meeting would consider the document withheld, and the Member's views as to why access to the documents is reasonably necessary to enable that Member to properly perform their duties as a Member of Council.

5. RECOMMENDATIONS

Members are recommended to :

- a) agree to establish a committee of the Board to consider the appeal currently submitted
- b) request the Director of Legal and Democratic Services to review the provisions of the Constitution in relation to access to information

**REPORT OF DIRECTOR OF CORPORATE SERVICES
REPORT TO EXECUTIVE BOARD
DATE : 14TH DECEMBER 2005**

SUBJECT : HEADINGLEY CRICKET GROUND

<p>Electoral Wards Affected :</p>	<p>Specific Implications For :</p> <p>Ethnic Minorities <input type="checkbox"/></p> <p>Women <input type="checkbox"/></p> <p>Disabled People <input type="checkbox"/></p>
<p>Executive Board Decision <input checked="" type="checkbox"/></p>	<p>Eligible for Call In <input type="checkbox"/></p> <p>Not eligible for Call In (details contained in the report) <input checked="" type="checkbox"/></p>

Summary:

In order to secure the playing of test match cricket at Headingley, the City Council has been approached to assist Yorkshire County Cricket Club to buy the Cricket Ground from the Leeds Cricket, Football and Athletic Co Ltd by making a £9m loan to be repaid over 15 years. Yorkshire County Cricket Club have until the end of December 2005 to purchase the cricket ground, and if they fail to do so, then their current 15 year agreement for staging test matches will lapse, and it is the club's view that it is likely that Headingley will not be able to compete for future test matches. This report sets out a variety of issues that need to be considered in reaching a decision on this matter. It identifies that the Council can rely upon its well being legal powers to make such loans if it is of the opinion that they will promote the social or economic well being of the city. It identifies the guarantees that will be used to protect the interests of the Council, and also sets out the income streams that the club will use to repay the loan. The report recommends providing a loan facility of £9m to the Yorkshire County Cricket Club to be repaid over 15 years and to be used to enable the Club to purchase the Headingley Cricket Ground. As the intention would be for the loan to be repaid, this will not impact upon any other services provided by the Council.

1.0 PURPOSE OF THIS REPORT

- 1.1 Executive Board at their meeting on the 16th November 2005, received a report on a request from the Yorkshire County Cricket Club Ltd to provide assistance to enable them to purchase the Headingley cricket ground in order to secure test

matches at the ground. The report identified that there still remained a number of outstanding issues and information, and members requested a further report prior to making a decision.

- 1.2 This report provides an update and seeks members' agreement to making a £9m loan to YCCC to be repaid over 15 years. The report sets out the terms of the proposed loan agreement and identifies the security that the Council will obtain to protect its interests. For completeness, this report repeats some of the information that was contained in the previous report.
- 1.3 If the recommendation is agreed, the decision to provide a loan cannot be subject to call in. Given that the transaction has to be complete by the 31st December 2005, there will be in-sufficient time for a call in process to be completed.

2.0 BACKGROUND INFORMATION

- 2.1 The Leeds Cricket Football and Athletic Company (LCFA) own the Headingley sports stadium, both the cricket and the rugby grounds. YCCC currently have a long leasehold on the cricket ground. It is understood that there have been previous discussions between LCFA and YCCC for the sale of the cricket ground to YCCC, but these did not reach a successful completion.
- 2.2 Although the Headingley cricket ground has test match status, this in itself does not secure the actual playing of test matches at the ground. There is in existence between YCCC and the ECB, a staging agreement which secures the allocation of test matches to YCCC over a 15 year period, commencing in the 2005 season (in fact because of the rota arrangements, the staging agreement provides for a test match at Headingley in 13 of the next 14 remaining years). However, the agreement is dependent on a number of conditions. In the context of this report, the key one is YCCC completing the purchase of the ground and associated commercial rights from LCFA by 31st December 2005. Other relevant conditions relate to health and safety and the agreement of a plan for the on-going development of the cricket ground. Officers of the Council have met with the Chief Executive of the ECB, and he has clearly stated that if YCCC is unable to fulfil the conditions of the staging agreement, then the agreement will lapse. Whilst the ECB state that they are supportive of YCCC and wish to see test match cricket continue at Headingley, they are under pressure to move away from long term staging agreements to a situation whereby all test matches are subject to tendering with county grounds competing against each other to stage them. This is not considered at this time to be an attractive proposition from Headingley's point of view, as there are a number of other new or modernised county cricket grounds pushing to stage test matches, and while there has been significant investment at the ground, some of the facilities are recognised to require further investment.

3.0 MAIN ISSUES

- 3.1 The parties have asked the Council to use its powers to make a loan of £9m to YCCC to enable YCCC to buy the cricket ground from LCFA. The agreed price for the cricket ground is £12m, but £3m (plus interest) is deferred for 15 years. The broad terms of this agreement are detailed in the attached confidential Appendix A. The Council is not being asked to assist with the £3m end payment, but it is important to be aware that should YCCC fail to make the £3m, plus interest payment, by the end of the 15 year period, LCFA will have an option to re-purchase the ground for £7m. This option would also be exercisable in the instance of YCCC's insolvency. YCCC will also have a £1m (plus RPI) option to

buy out LCFA's lease on the ground floor (bar) of the Wintershed and associated development rights. This option will be exercisable in just the first 5 years of the agreement. This is an important option in order to ensure the YCCC have full and unencumbered ownership and use of the cricket ground. The Council is not being asked to assist with this payment.

- 3.2 The Council will have to take out borrowing in order to provide the loan funding to the YCCC. The Council is free to take out borrowing under new freedoms in the Local Government Act 2003, provided that it takes prudence and sustainability requirements into account when making decisions on borrowing¹. The loan would be repaid to the Council over a 15 year period with arrangements to ensure that there is no net cost to the Council Tax payer. The interest to be charged to the Club would be 4.5%, and is in line with that which the Council can obtain on new loans. The fact that the Council can obtain and thus offer a preferential interest rate, which will be fixed for the life of the loan, are the key attractions to YCCC. Providing a £9m loan facility to YCCC would not exceed any of the Council's borrowing limits and as such will not impact upon the Council's ability to borrow for other purposes. Likewise, as the intention would be for the loan to be repaid, providing the loan facility will not reduce the resources available for other Council services.
- 3.3 As previously reported the Council has sought legal advice on its powers to make a loan to YCCC. Counsel has advised that the proposed loan is a step which Leeds City Council can lawfully take pursuant to the well being powers of Part I of the Local Government Act 2000 and in particular section 2. Accordingly, so long as the Council is of opinion that the project will promote or improve the social wellbeing of the area or indeed the economic wellbeing, that is sufficient to give the Council the power under section 2. Counsel also advised that the Local Authority does have the power to borrow money for any purpose relevant to its functions under any legislation under Part 1 of the Local Government Act 2003. He has also advised that there is nothing in any other legislation, nor in any obligations under European legislation dealing with state aid, which would prevent the Council providing a loan in these circumstances.
- 3.4 In this case, the Council's decision to intervene is based on the economic and reputational contribution which the staging of test match cricket at Headingley provides to the city. A recent study, conducted by Sheffield Hallam University² showed that international cricket matches provides economic benefit to Yorkshire, which under the Club's development proposals could be up to £4.25m per year. The report also stresses that test match cricket enhances the reputation of the city and provides business and marketing opportunities allowing the city region's distinctive character to be promoted. Other benefits including the promotion of sport and physical activity are also highlighted in the report.
- 3.5 The ability of the YCCC to repay a loan from the Council is clearly a prime concern. The Cricket Club will take income relating to test match cricket and one day internationals (catering, hospitality and advertising) which is currently received by LCFA, this is currently in excess of £760k pa net. It should also be appreciated that the Club has loans/overdraft outstanding to the HSBC bank which total around £6.7m. Officers of the Council have worked with officials of the HSBC and have as part of a financial business plan for the club agreed a cashflow profile, which is considered reasonable and deliverable, and which will

¹ This is by compliance with the CIPFA Prudential Code.

² "An economic impact assessment of major sports events staged at Headingley", author, the sport industry research centre at Sheffield Hallam University Sept 2005.

enable the Club to meet its financial liabilities. As part of this, a profile of loan repayments of the Council's loan has been agreed which is calculated to ensure that the loan is repaid within the 15 years.

3.6 There can no absolute guarantee of the income generating activity of YCCC, and as such no guarantee of the ability of the Club to repay the loan. There are uncertainties over the income streams of the Club. This is partly due to their nature; cricket's popularity could change over time and on a year by year basis can be affected by a variety of factors. Also some of the agreements the club has in place for catering and hospitality are, for example for five years only. In negotiations with YCCC, officers have sought to minimise the risk to the Council, in making a loan. Agreement to security has been agreed as detailed below:

- Income transferred from LCFA in respect of test match cricket to be assigned to the Council.
- The Council to have a first fixed and floating charge over the assets of the YCCC (including the cricket ground and the cricket school). Both HSBC and Sport England, who both have charges over the ground, have agreed to this. As part of previous lottery funding provided through Sport England, the Council also made a grant to the Club, for which it retains a charge equivalent to £1m. As Sport England have agreed to the Council taking a first charge in respect to this new loan, it would appear reasonable for the Council also to relinquish its charge established when its grant was provided in 1999. The Council's independent valuation has confirmed that there is sufficient value in the interests which YCCC is acquiring to cover the Council's new loan. Further details are provided in the attached confidential Appendix A. The existing terms of the joint venture agreement with YCCC for the cricket school will be incorporated within the new loan agreement.
- A unconditional personal shortfall guarantee up to the full amount of the loan from YCCC's current Chief Executive, who is also the Chief Executive and Managing Director of Costcutter.
- Discussions are on going to establish financial covenants, to ensure effective financial management and to protect the Council's rights to repayments, including in the instance of the Club's insolvency.

3.7 As this proposal will expose the Council to ongoing risks, particularly in relation to future operational decisions the club may take, as a condition of the loan the Council will have the right to appoint an officer (or agent) to serve as a Director on the main board of the club. In addition, the Council will have a right to approve other nominations and appointments to the board. Both these conditions will need to be ratified by the Club's AGM, which will not be until March 2006 and as such non agreement of these conditions will be included as a default condition within the loan agreement. It will also be a condition of the loan that the Club promote cricket and remain at Headingley for the duration of the loan.

3.8 The Club are keen to exercise the £1m option for the lease of the ground floor of the Wintershed and to pay the deferred payment of £3m (plus interest) as soon as possible. The Council has received information as to the Club's plan, which include designating 2006 as a Ground Appeal year.

3.9 In enabling YCCC to purchase the freehold of the cricket ground, the Council will be facilitating the Club in meeting just one of the conditions of the staging agreement. Officers have also sought assurances from the ECB that they are satisfied with YCCC's compliance with the other aspects of the staging

agreement, in respect to health and safety and the Club's plans for the on going development of the ground. The ECB have confirmed that the Club's proposed health and safety arrangements and reporting lines meet the ECB's requirements. The Council has also received a signed statement by the ECB confirming that YCCC's development plans meet the requirements of the ECB in respect to a Development Plan. These plans cover the North/South stand, a new media centre, improved changing facilities to be contained in a new pavilion and increasing the ground capacity to approximately 20,000, but do not include any timescales within the 15 years covered by the staging agreement. It is understood that there are a number of options being considered for the funding of the stadium's development.

- 3.10 The Club have also agreed to meet the Council's legal and surveying costs in this matter.

4.0 RISK ASSESSMENT

- 5.1. The main risks that the Council will face over the term of the repayment of the loan are summarised below:

- The financial ability of YCCC to meet its loan repayments to the Council as well as meet its other financial commitments.
- The vulnerability of YCCC income streams, which could be affected by a variety of factors over the life of the loan, for example the popularity of cricket, the weather, and the maintenance of commercial contracts at their current levels. The Club do have in place ticket refund insurance to cover the effect of lost ticket revenue due to weather.
- That the Council might have to call in its charge on the ground and/or personal guarantee should YCCC default on its loan repayments and the possibility that the Council may not be able to realise sufficient to cover the loan outstanding at that time, with the result that the Council would need to service any outstanding debt.
- Factors that could jeopardise the staging agreement over its life, including for example health and safety issues
- Factors that could impact upon the operation of the cricket ground from either other parts of the stadium complex or external to the ground.
- The ability of YCCC to meet the £1m option payment to buy out LCFA's lease on the ground floor of the Wintershed within the required 5 year period to enable the Club to enjoy the full and unencumbered use of the cricket ground that they are seeking.
- The ability of YCCC to meet the final payment of £3m to retain the freehold beyond 15 years, which if not completed would allow LCFA to re purchase the cricket ground.
- Failure to attract funding for the necessary development of the ground, which could impact on the ability of the Club to maintain test match cricket beyond the term of the current staging agreement.

5.0 RECOMMENDATION

- 5.1 Members of the Executive Board are asked to agree to the Council providing a loan facility for £9m to Yorkshire County Cricket Club in accordance with the structure described in this report, with the agreement of detailed arrangements delegated to the Directors' of Corporate Services, Development and Legal and Democratic Services.