

Incorporating the LGA – FAQs

1. Why do we need to change?

The LGA is currently an Unincorporated Association and its Constitution is similar to any voluntary club. In law it cannot enter into contracts or own title to property. Because of this, the LGA's two properties – Layden House in Farringdon 18 Smith Square in Westminster - are owned by separate property companies.

Rationalising the company structure will enable us to be more tax efficient and ensure that as much income as possible is used for the benefit of member councils.

2. Why are we doing this now?

The LGA wants to become more commercial in order to offer best value to member councils and keep subscriptions low. As part of this we are redeveloping 18 Smith Square and Layden House to increase their capital value and to give the LGA a sustainable income stream. However under the current company structure

- Commercial income would go to the property companies and would be taxable.
- The transfer or sale of either building would be subject to capital gains tax.

3. Why is an unlimited company proposed? Why not a limited liability company?

A senior member task group was set up in 2016 to review the LGA's company structures, supported by deputy chief executive Sarah Pickup and advised by leading tax specialists, Crowe Clark Whitehill. The task group considered a wide range of possibilities, including charitable status, limited liability partnership, community interest company, company limited by shares, company limited by guarantee and an unlimited company.

The task group concluded that an unlimited company best replicated the current arrangements, enabling the Association to continue to share assets and liabilities between its member councils according to the proportion of subscriptions paid, to maintain the current covenant allowing it to be treated as local authority by its pension trustees and to form a tax group with the property companies and a VAT group with the property companies and the IDeA company.

The definition of a company for tax grouping purposes specifically excludes limited liability companies and for this reason this option was discounted.

4. What is being proposed?

There are three parts to the proposal:-

- To establish a new incorporated LGA, set up as an unlimited company, to take on the activities, assets and liabilities of the current LGA.
- To convert the property companies to unlimited companies with share capital, and to issue their shares to the new LGA. The two properties can then be transferred to the LGA without the need to pay capital gains tax or stamp duty.
- To form tax and VAT groups between the new LGA and its companies to maximise their tax efficiency.

5. Why is the LGA choosing to replicate the previous governance arrangements rather than move to a more streamlined corporate model?

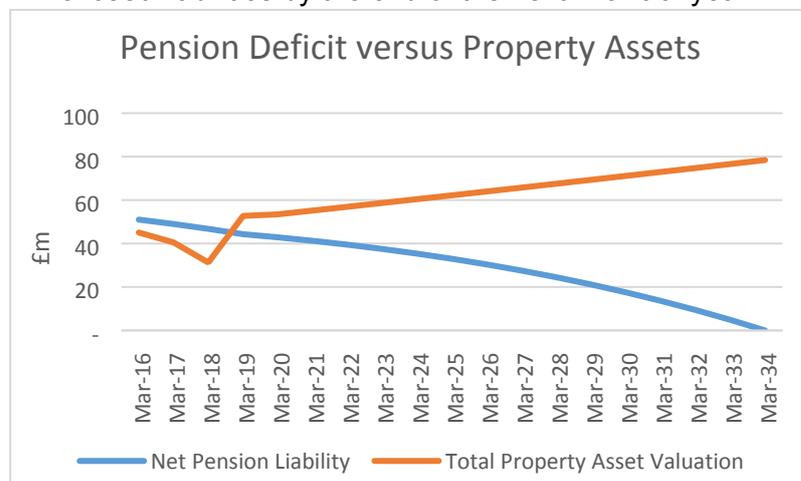
In 2014, the LGA undertook an extensive review of its governance arrangement with a view to creating a more streamlined model. However following extensive consultation, lead members concluded that as a national membership body, ensuring the active engagement of a wide number of members from across the country was more important than creating a streamlined structure. There has been no political appetite since then to revisit this.

6. What will happen to the LGA's assets?

The majority of the LGA's interests – for example its share in Local Partnerships – will be transferred to the new company. The two property companies - LGA Properties Ltd and LGMB - will be converted to unlimited companies with share capital, with the shares issued to the new Incorporated LGA. This will enable the income from the two properties to go straight to the LGA, with consequent benefits for the LGA and its membership.

7. What about its liabilities?

The LGA has a mortgage on 18 Smith Square and this, along with our pension liabilities, will be transferred to the new company. However under current projections, our assets will exceed liabilities by the end of the next financial year.



8. What about my council's liability if the company is unlimited by guarantee?

Under the current Constitution all member councils, both existing and past, must contribute to any deficit if the Association were to be dissolved. Contributions are proportionate to the levels of annual subscription paid. Conversely, member councils would also be entitled to a share of any assets. This will not change under the proposals.

9. Why should the Council sign up to the proviso that it underwrites the Association's costs for five years if it decides to leave?

This replicates the arrangement in the current Constitution of the LGA. It is designed to give stability to the organisation and to protect member authorities from being left with significant costs in the event of a large number of councils leaving the Association.

In renewing its membership each year, each council already signs up to this and has done since the LGA was created in 1997.

10. Should the decision to join the new LGA Company be a member decision or can the Chief Executive signed the application?

From a member council perspective, the risks and benefits of the new LGA company closely resemble those of the incorporated Association, with assets and liabilities continuing to be shared between its member councils according to the proportion of subscriptions paid.

It is of course up to individual councils to decide but many Chief Executives have already signed up to the new LGA, as they have done each year to the unincorporated Association.

11. What does this mean for my council?

Practically, there will be no change for member councils. Our Boards, Fire Services Management Committee, LGA Executive and the Leadership Board will all continue to operate in the same way and we will continue to deliver the same services to our membership.

However the new arrangements will enable us to maximise income available to support our work with councils, whilst keeping subscriptions as low as possible. This means that overall, member councils will be better off under the new arrangements.

12. Who will be the company directors?

The Chairman, Vice and Deputy Chairs of the Association will form the Board of Directors of the new LGA. They are elected annually by the General Assembly.

13. Why couldn't we use the IDeA company instead of creating something new?

The IDeA company is the specified body for receipt of government grant for our improvement activities. There has to be clear segregation between our grant funded work and our political lobbying activity which is central to the LGA.

14. What happens next?

General Assembly approved the change on 4 July 2017 and the new company has been registered with the chairman, vice and deputy chairs as the directors and interim members. The Board met on 7 March to ratify the appointments, followed by the first general meeting of the interim members to adopt the new articles of association.

On 26 February 2018, every member council received an invitation to join the new incorporated company by 31 March 2018, along with their 2018 membership pack. Councils will need to complete and sign a simple form and return it in hard copy to the Chief Executive. A copy of the form is attached.

Councils' 2018/19 subscription will give them membership both of the current unincorporated LGA and the new LGA company.

Assuming that all member councils have signed up to the new LGA, we will invite General Assembly in 2018 to pass a resolution to dissolve the unincorporated Association once all its activities, assets and liabilities have been transferred to the new company. This should give us a seamless transition to the new incorporated LGA.

15. What if we decide not to go ahead?

If an insufficient number of councils apply for membership of the new company, the LGA will continue in its current form. This will mean that the two properties remain in the ownership of the property companies, and we will have to pay tax on all our commercial property income.

16. What happens if I miss the 31 March deadline?

Your 2018/19 subscription gives you membership of the both the current and the new LGA. As soon as we receive your completed application you will be admitted as a member of the new company.

17. What happens to the LGA's staff?

All LGA employees will transfer to the new entity once the final decision is taken to dissolve the existing LGA. We will need to ensure that we comply with all employment law requirements as we manage the transfer.