

## Notice of Meeting

### CABINET

**Tuesday, 16 July 2019 - 7:00 pm**  
**Council Chamber, Town Hall, Barking**

**Members:** Cllr Darren Rodwell (Chair); Cllr Saima Ashraf (Deputy Chair) and Cllr Dominic Twomey (Deputy Chair); Cllr Sade Bright, Cllr Evelyn Carpenter, Cllr Cameron Geddes, Cllr Syed Ghani, Cllr Margaret Mullane, Cllr Lynda Rice and Cllr Maureen Worby

Date of publication: 8 July 2019

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### AGENDA

**1. Apologies for Absence**

**2. Declaration of Members' Interests**

In accordance with the Council's Constitution, Members are asked to declare any interest they may have in any matter which is to be considered at this meeting.

**3. Minutes - To confirm as correct the minutes of the meeting held on 18 June 2019 (Pages 3 - 12)**

**4. Medium Term Financial Strategy and Reserves Policy 2019/20 to 2023/24 (Pages 13 - 40)**

**5. Adults' Care and Support Charging Policy (Pages 41 - 102)**

6. **Care Leavers Local Offer (Pages 103 - 117)**
7. **Refurbishment and Change of Use of Grays Court Hospital (Pages 119 - 132)**
8. **Children's Care and Support Improvement Programme (Pages 133 - 166)**
9. **Gascoigne West and Sebastian Court Development Proposals - Use of CPO and Appropriation Powers (Pages 167 - 183)**
10. **Review of School Places and Capital Investment - Update June 2019 (Pages 185 - 202)**
11. **Adoption of Gambling Licensing Policy 2019 - 2022 (Pages 203 - 258)**
12. **London Counter Fraud Hub (Pages 259 - 265)**
13. **Procurement of Parking Noticing and Cashless Parking Systems (Pages 267 - 272)**
14. **Procurement of Traffic Enforcement Cameras (Pages 273 - 279)**
15. **Any other public items which the Chair decides are urgent**
16. **To consider whether it would be appropriate to pass a resolution to exclude the public and press from the remainder of the meeting due to the nature of the business to be transacted.**

#### **Private Business**

The public and press have a legal right to attend Council meetings such as the Cabinet, except where business is confidential or certain other sensitive information is to be discussed. The list below shows why items are in the private part of the agenda, with reference to the relevant paragraph of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended). ***There are no such items at the time of preparing this agenda.***

17. **Any other confidential or exempt items which the Chair decides are urgent**



Our Vision for Barking and Dagenham

## **ONE BOROUGH; ONE COMMUNITY; NO-ONE LEFT BEHIND**

Our Priorities

### **A New Kind of Council**

- Build a well-run organisation
- Ensure relentlessly reliable services
- Develop place-based partnerships

### **Empowering People**

- Enable greater independence whilst protecting the most vulnerable
- Strengthen our services for all
- Intervene earlier

### **Inclusive Growth**

- Develop our aspirational and affordable housing offer
- Shape great places and strong communities through regeneration
- Encourage enterprise and enable employment

### **Citizenship and Participation**

- Harness culture and increase opportunity
- Encourage civic pride and social responsibility
- Strengthen partnerships, participation and a place-based approach

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## MINUTES OF CABINET

Tuesday, 18 June 2019  
(7:02 - 9:02 pm)

**Present:** Cllr Darren Rodwell (Chair), Cllr Dominic Twomey (Deputy Chair), Cllr Sade Bright, Cllr Evelyn Carpenter, Cllr Cameron Geddes, Cllr Syed Ghani, Cllr Margaret Mullane, Cllr Lynda Rice and Cllr Maureen Worby

**Apologies:** Cllr Saima Ashraf

### 10. Statement by the Leader

At the commencement of the meeting, the Leader gave a statement on the fire at Samuel Garside House, De Pass Gardens, Barking, that occurred in the afternoon of Sunday 9 June 2019.

Ten flats had been completely destroyed by the fire and a further 43 had varying levels of damage, although the Leader was very pleased to confirm that there had been no serious injuries and only two residents required treatment, for the effects of smoke inhalation. The Leader especially praised the London Fire Brigade for its immediate response to the first call at approximately 3.30pm and also commended the Council staff who began to arrive at the scene within 30 minutes to help coordinate the efforts and provide advice and support to those affected.

A total of 79 families were impacted by the fire and a range of measures had been put in place to ensure that they all had a roof over their heads from that first evening. There had been ongoing dialogue with the site developer (Bellway Homes), the managing agent (RMG) and Southern Housing Association regarding the options for those not able to return to their homes and the Leader was pleased to announce that plans had been agreed earlier in the day between the Council, Barking Riverside Limited, London & Quadrant Housing Trust and the insurers for the developer to provide permanent accommodation in the Borough to those not able to return home for the duration of the repair works.

The Leader and Cabinet Members spoke on the kindness, generosity and support of the local community, which included donations to a crowdfunding page as well as offers of clothing and other items. Particular mention was also made to the support of the British Red Cross and the Leader advised that he would be writing to all the organisations involved to thank them for their hard work and generosity.

On a different issue, the Leader also spoke on the success of the Future Youth Zone project in Parsloes Park, which already had over 3,000 young members and had been receiving, on average, over 1,800 visitors each week since it opened in April 2019.

### 11. Declaration of Members' Interests

There were no declarations of interest.

## 12. Minutes (21 May 2019)

The minutes of the meeting held on 21 May 2019 were confirmed as correct.

## 13. Provisional Revenue and Capital Outturn 2018/19

The Cabinet Member for Finance, Performance and Core Services presented a report on the Council's revenue and capital outturn position for 2018/19, which represented the expected final position for the year, subject to external audit.

The General Fund revenue expenditure for the financial year was projected at £151.667m against the revised budget of £145.368m, although that was offset by an income surplus of over £3m which meant that the year-end net variance was projected to be an overspend of £2.881m. The Cabinet Member confirmed that the overspend would be met from the specific Budget Support reserve, meaning that the main General Fund reserve balance would remain at £17m (£2m above the minimum floor position previously agreed by the Council). The Cabinet Member also referred to a number of revenue budget carry forwards and transfers to / from reserves that had been accounted for in the outturn position and advised that 98% of previously agreed savings had now been achieved.

The Housing Revenue Account (HRA) showed a projected year-end surplus of £1.075m, which would be transferred to the HRA reserve, while Dedicated Schools Grant (DSG) expenditure showed an overspend of £1.902m due to pressures on the High Needs block, which were expected to continue into 2019/20. The Cabinet Member for Educational Attainment and School Improvement reported that, in spite of the ongoing financial pressures faced by schools, a significant amount of progress was being made. One example was a project led by the Council, in partnership with the Department for Work and Pensions and other agencies, to increase accessibility to free school meals which had resulted in an extra 1,984 registrations in the 2018/19 financial year, taking the total number of children accessing free school meals in the Borough to 8,196.

The Council's Capital Programme showed expenditure of £225.153m against the budget of £284.758m and it was proposed that the £37.559m of slippage that related to General Fund projects would be carried forward to 2019/20. The Cabinet Member for Finance, Performance and Core Services also referred to two new capital projects, one to support local ward initiatives and the other to fund urgent repair and replacement works to corporate, commercial and non-HRA residential properties.

Cabinet **resolved** to:

- (i) Note the provisional revenue outturn for Council services as set out in sections 2 and 3 and Appendix A to the report;
- (ii) Note the provisional outturn on the Dedicated Schools Budget as set out in section 4 of the report;
- (iii) Note the provisional Capital Programme outturn as set out in section 5 and appendices B and C to the report;

- (iv) Approve the carry forward of slippage of £37.559m into the General Fund Capital Programme 2019/20;
- (v) Approve the creation of a Ward Member capital budget of £0.34m and £1.0m capital budget for urgent maintenance and health and safety works, as set out in section 6 of the report;
- (vi) Approve the transfers to and from reserves as set out in Appendix D to the report;
- (vii) Note the provisional outturn of the Housing Revenue Account as set out in section 8 of the report; and
- (viii) Note the position on Schools balances as set out in section 9 of the report.

#### **14. Estate Renewal - Approach and Resident Offer**

The Cabinet Member for Regeneration and Social Housing introduced a report on the Council's proposed approach to developing estate renewal proposals, which covered the criteria for assessing potential estate renewal schemes, how the Council would consult residents on the proposals before final decisions were made and the offer to those residents displaced as a result of estate renewal projects.

The Cabinet Member referred specifically to the offer to displaced residents, which included giving Council tenants top priority to bid for an alternative Council home in the Borough and having a Right to Return to the new homes within the B&D Reside portfolio, at a Council target rent and on an Assured Tenancy. Officers were also assessing the implications of the Council offering interest-free equity loans in certain circumstances to enable resident leaseholders to take up their Right to Return.

Cabinet **resolved** to:

- (i) Approve the criteria for considering estate renewal, as set out in paragraph 2.1 of the report;
- (ii) Note the proposed approach to consultation on estate renewal proposals, and approve the proposed arrangements for statutory section 105 consultation as set out in paragraph 2.5 of the report;
- (iii) Approve the rehousing offer for tenants and leaseholders as set out in paragraph 2.8 of the report;
- (iv) Note and approve the financial assistance that may be offered to resident leaseholders to enable them to stay in the local area, or to enable them to take up the Right to Return as set out in paragraphs 2.9 and 2.10 of the report;
- (v) Note and approve the proposed Help to Move offer, as set out in paragraphs 2.11 and 2.12 of the report;
- (vi) Agree that the rehousing offer be made to tenants and leaseholders of the

four estate renewal schemes currently subject to consultation (Rainham Road South, Rectory Road, Roxwell Road and Oxlow Lane) and note that further reports on those schemes would be presented to Cabinet later in the year following resident consultation; and

- (vii) Delegate authority to the Director of Inclusive Growth to extend the terms of the rehousing offer to any other tenant(s) or leaseholder(s) on a discretionary basis.

## **15. Multi-Agency Safeguarding Partnership Arrangements**

The Cabinet Member for Social Care and Health Integration presented a report on the plans for safeguarding children and young people in the Borough under new multi-agency safeguarding arrangements developed in response to new legislation, regulations and statutory guidance.

The new framework gave equal responsibility to the Council, the local Clinical Commissioning Group and the Police (the Statutory Partners) to develop robust safeguarding arrangements, which must be shared with the Department for Education and published by 30 June 2019 and in place by 30 September 2019. The Cabinet Member explained that the plans had been developed at two levels: the first reflected how the three statutory partners across Barking and Dagenham, Havering and Redbridge would better work together across the footprint to meet shared safeguarding challenges while the second and more detailed aspect related to the local arrangements that ensured the continued focus on the needs of children and young people in Barking and Dagenham. A new Safeguarding Partnership Board would replace the existing Local Safeguarding Children's Board (LSCB), building on the agreed principles and priorities of the LSCB, and would comprise the three statutory partners alongside a local Safeguarding Champion who would represent the voice of the child and the wider family.

The Cabinet Member pointed to the expected outcomes and next steps for implementing the plans and reference was also made to feedback from the BAD Youth Forum regarding who young people would be more likely to speak to if they were experiencing problems.

Cabinet **resolved** to:

- (i) Agree the principles and approach to the new Multi-Agency Safeguarding Partnership Arrangements as set out in the report;
- (ii) Note the plans for implementing the arrangements during the period July - September 2019; and
- (iii) Delegate authority to the Director of People and Resilience, in consultation with the Cabinet Member for Social Care and Health Integration, to finalise and publish the plan for the new arrangements by 29 June 2019.

## **16. OFSTED Inspection of Children's Services and Improvement Plan**

The Cabinet Member for Social Care and Health Integration introduced a report on the outcome of an inspection from OFSTED earlier in the year of children's social

care services, alongside the Council's Improvement Plan in response to OFSTED's findings.

The Cabinet Member explained that while the OFSTED inspection had identified that improvement was necessary across the board, the inspectors were very positive about the impact of the new senior leadership team, the improvements that were already being made and the positive plans for the future. OFSTED had made six key recommendations and the Council's Improvement Plan set out the measures that would be taken to address each recommendation, together with the target date and expected outcomes. It was noted that OFSTED was expected to undertake a 'focussed visit' at some point, ahead of a full review within two years.

Cabinet Members spoke in support of the Improvement Plan and the progress being made despite the significant demands on children's social care services in the Borough. On that issue, the Leader called for the Government to redress the imbalance in funding through its Fairer Funding review.

Cabinet **resolved** to:

- (i) Note the findings of the OFSTED Inspection of Children's Services in February 2019, as set out in Appendix A to the report;
- (ii) Agree to the publication of the Council's Improvement Plan in response to the OFSTED ILACS by 9 July 2019, as set out at Appendix B to the report; and
- (iii) Note that a report shall be presented to the Cabinet in July outlining proposals for a full Children's Improvement Programme.

#### **17. Barking and Dagenham Local Plan - Local Development Scheme 2019 and Statement of Community Involvement Refresh 2019**

The Cabinet Member for Regeneration and Social Housing introduced a report on the production of supporting documents to the Council's Local Plan to be published later in the year, which would set out the vision and priorities for growth in the Borough for the next 15 years.

The Local Development Scheme (LDS) document set out the timescales for preparing the new Local Plan while the Statement of Community Involvement Refresh (SCI) set out how the Council intended to engage with local and statutory stakeholders on local planning matters. The documents reflected changes in legislation, national policies and local circumstances since they were last adopted in 2015 and the Cabinet Member confirmed that the SCI was an interim document which would be subject to consultation.

Cabinet **resolved** to:

- (i) Approve the Local Development Scheme 2019 for publication; and
- (ii) Approve the Statement of Community Involvement 2019 refresh for consultation and note that a full review of the document shall take place following the submission of the Local Plan.

## 18. Treasury Management Annual Report 2018/19

The Cabinet Member for Finance, Performance and Core Services introduced the Treasury Management Annual Report for 2018/19 which set out the key areas of performance during the year.

The Cabinet Member was pleased to report that investment income for the year was £8.9m compared to the budget of £4.3m, while the Council's average interest return of 1.50% was 0.57% higher than the average London Peer Group return and 0.58% higher than the Local Authority average return. The Council had borrowed an additional £140m of long-term funding via the General Fund during 2018/19, bringing the total long-term General Fund borrowing to £475.7m. The Cabinet Member confirmed that borrowing would continue to rise in the years ahead as the Council progressed its Investment and Acquisition Strategy, with returns being used to support the provision of improved services to the local community.

Cabinet **resolved** to:

- (i) Note the Treasury Management Annual Report for 2018/19;
- (ii) Note that the Council complied with all 2018/19 treasury management indicators;
- (iii) Approve the actual Prudential and Treasury Indicators for 2018/19; and
- (iv) Note that the Council borrowed £140.0m from the Public Works Loan Board in 2018/19.

## 19. Contract for Adults' Home Care Services

The Cabinet Member for Social Care and Health Integration introduced a report on plans for the procurement of a four-year contract for the provision of home care services, to commence from January 2020.

The Cabinet Member referred to the options appraisal which set out details of the six possibilities that were considered in the development of the proposals. The preferred option would bring together the two strands of general home care and crisis intervention services under one framework, with successful tenderers becoming responsible for providing services within three defined localities, in line with the Council's Integrated Care Model.

Cabinet Members commented on the considerable work that had gone into the development of the proposals and particularly welcomed the prioritisation of quality over price in the tender evaluation criteria.

Cabinet **resolved** to:

- (i) Agree that the Council proceeds with the procurement of a framework agreement contract for Home Care Services in accordance with the strategy set out in the report; and

- (ii) Delegate authority to the Director of People and Resilience, in consultation with the Cabinet Member for Social Care and Health Integration, the Director of Law and Governance and the Chief Operating Officer, to conduct the procurement and award and enter into the contract(s) for the framework agreement and all other necessary or ancillary agreements with the successful bidder, in accordance with the strategy set out in the report.

**20. Contract for Provision of Pest Control and Related Services in Council Premises**

The Chair advised that the report had been withdrawn to allow officers to give further consideration to the services to be covered under the contract.

**21. Contract for Provision of Security Services to Domestic Void Properties and other Vacant Properties**

The Cabinet Member for Regeneration and Social Housing introduced a report on the procurement of a contract for the provision of security services to domestic void properties and properties to be regenerated or demolished, to commence on 1 September 2019.

Cabinet **resolved** to:

- (i) Agree that the Council proceeds with the procurement of a contract for the provision of security services to domestic void properties and properties to be regenerated or demolished via the Fusion21 Empty Properties Security Framework, in accordance with the strategy set out in the report; and
- (ii) Authorise the Director of My Place, in consultation with the Cabinet Member for Regeneration and Social Housing, the Director of Law and Governance and the Chief Operating Officer, to conduct the procurement and award and enter into the contract(s) and all other necessary or ancillary agreements with the successful bidder.

**22. Procurement of Carers' Support Service**

The Cabinet Member for Social Care and Health Integration introduced a report on the plans to procure a contract for the provision of an extensive carers' support service, to commence in February 2020.

The Cabinet Member referred to the new contract specification which covered a wide range of service requirements, including:

- the provision of a digital-based platform for information, advice, signposting and referral for formal carers' assessments;
- the provision of telephone and face-to-face support services and flexible service delivery, including out of hours and weekends;
- working with local health partners to raise awareness of carers and to support carers in accessing mental health and other relevant services;
- the development and enabling of Peer Support Groups;
- strategic partnership working to inform and develop the Carers' Strategy and

- marketplace;
- strategic partnership working to promote resilience and empowerment amongst carers and create a carer friendly community.

Cabinet **resolved** to:

- (i) Agree the procurement of a Carers' Support Service for a period of three years commencing February 2020, with the option to extend for up to two years at the sole discretion of the Council; and
- (ii) Delegate authority to the Director of People and Resilience, in consultation with the Cabinet Member for Social Care and Health Integration, the Director of Law and Governance and the Chief Operating Officer, to conduct the procurement and award and enter into the contract and all other necessary or ancillary agreements with the successful bidder in accordance with the strategy set out in the report.

### **23. Corporate Plan - Quarter 4 2018/19 Performance Reporting**

The Cabinet Member for Finance, Performance and Core Services introduced the corporate performance monitoring report for the fourth quarter of the 2018/19 financial year, which set out progress at the year-end in respect of the Council's Key Accountabilities and 47 Key Performance Indicators (KPIs).

The Cabinet Member advised that the amount of waste produced per household and a fall in recycling rates were areas that required significant improvement. Several areas of improved performance were also highlighted, including the percentage of schools rated 'outstanding' or 'good' by OFSTED, the fall in staff sickness levels, the numbers of households in Temporary Accommodation and the fall in the average time taken to process Housing Benefit and Council Tax changes.

Cabinet **resolved** to:

- (i) Note progress against the Key Accountabilities as detailed in Appendix 1 to the report; and
- (ii) Note performance against the Key Performance Indicators as detailed in Appendix 2.

### **24. Debt Management Performance and Write-Offs 2018/19 (Quarter 4)**

The Cabinet Member for Finance, Performance and Core Services introduced the performance report for the final quarter of the 2018/19 financial year in respect of the debt management functions carried out on behalf of the Council by the Revenues and Benefits service within Elevate East London.

The Cabinet Member advised that of the six key debt collection targets, three had been exceeded, one was at the target rate and two were slightly below target. Those two related to Council Tax and Council housing rents, which the Cabinet Member suggested was a direct consequence of the financial pressures faced by many local residents as a result of the Government's austerity programme.

Cabinet **resolved** to:

- (i) Note the performance of the debt management function carried out by the Revenues and Benefits service operated by Elevate East London, including the performance of enforcement agents; and
- (ii) Note the debt write-offs for the fourth quarter of 2018/19.

## **25. Purchase of 44-52 River Road, Barking**

The Cabinet Member for Finance, Performance and Core Services presented a report on the proposed purchase of the 4.37 acre site at 44-52 River Road, as part of the Council's Investment and Acquisition Strategy.

The Cabinet Member referred to the strong covenant provided by the existing lease arrangements, which were guaranteed for at least the next 10 years, and the projected investment yield based on a maximum purchase price, which was specified in an exempt appendix to the report, and taking into account guaranteed rental income and the costs of borrowing. The Cabinet Member also confirmed that the detailed proposals and financial assessment had passed through the Be First project gateway process as well as scrutiny by the Council's Investment Panel, who both supported the project.

Cabinet **resolved** to:

- (i) Approve the acquisition of the site at 44-52 River Road, as shown edged red in the plan at Appendix 1 to the report, via borrowing within the General Fund on the terms set out in Appendix 2 to the report;
- (ii) Delegate authority to the Chief Operating Officer, in consultation with the Cabinet Member for Finance, Performance and Core Services, the Cabinet Member for Regeneration and Social Housing and the Director of Law and Governance, to agree the final terms for completion and retain the asset as an investment on the completion of all due diligence; and
- (iii) Authorise the Director of Law and Governance to enter into all necessary agreements, contracts and other documents to complete the freehold purchase.

## **26. Private Business**

Cabinet **resolved** to exclude the public and press for the remainder of the meeting by reason of the nature of the business to be discussed which included information exempt from publication by virtue of paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended).

## **27. Purchase of Strategic Site in Barking Town Centre**

The Cabinet Member for Finance, Performance and Core Services presented a report on the proposed purchase of a strategically important site in the Barking Town Centre area, as part of the Council's Investment and Acquisition Strategy.

The Cabinet Member referred to financial arrangements associated with the proposed purchase and the projected investment yield based on a maximum purchase price, which took into account the rental income from the secure tenant and costs of borrowing. The Cabinet Member again confirmed that the detailed proposals and financial assessment had successfully passed through the Be First project gateway process as well as scrutiny by the Council's Investment Panel.

Cabinet **resolved** to:

- (i) Agree to the purchase of the site, as shown edged red in Appendix 1 to the report, on the terms set out in section 2 of the report; and
- (ii) Delegate authority to the Chief Operating Officer, in consultation with the Cabinet Member for Finance, Performance and Core Services and the Director of Law and Governance, to enter into necessary agreement(s) to purchase the site subject to satisfactory due diligence and an independent valuation.

**CABINET****16 July 2019**

<b>Title:</b> Medium Term Financial Strategy and Reserves Policy 2019/20 to 2023/24	
<b>Report of the Cabinet Member for Finance, Performance and Core Services</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> Yes
<b>Report Author:</b> Helen Seechurn, Interim Finance Director	<b>Contact Details</b> Tel 0208 227 3663 Email: <a href="mailto:helen.seechurn@lbbd.gov.uk">helen.seechurn@lbbd.gov.uk</a>
<b>Accountable Director:</b> Helen Seechurn, Finance Director	
<b>Accountable Strategic Director:</b> Claire Symonds - Chief Operating Officer	
<b>Summary</b>	
<p>This report sets out a draft Medium-Term Financial Strategy (MTFS) and Reserves policy for the period 2019/20 to 2023/24 for key council (general fund) services. It shows how the delivery of a strategy for better outcomes goes hand in hand with organisational financial health. It has been prepared recognising the financial uncertainty facing the sector in the light of plans to introduce fair funding and 75% business rates retention from 2020/21, although anticipated demands and pressures have been recognised. The MTFS offers a framework to close the budget gap ensuring resources are aligned to the borough manifesto and corporate plan. The MTFS identifies a cumulative gap of £6m (c 4% of net revenue budget) following the completion of the current transformation programme which expected to deliver some £13m of future savings in 2020/21. This gap is to be closed through targets for both short term and longer-term interventions, ensuring a medium term financially balanced position.</p> <p>The report also sets out principles for a robust reserve policy and suggests a set of commercial indicators to supplement the prudential framework.</p>	
<b>Recommendations</b>	
The Cabinet is recommended to:	
(i) Approve the Medium-Term Financial Strategy and Reserves Policy 2019/20 to 2023/24 as set out in Appendix A to the report and the approach proposed to ensure the financial health of the Council over the medium term.	
<b>Reason(s)</b>	
As a matter of good financial practice, the Cabinet should approve a Medium-Term Financial Strategy and Reserves Policy to maintain financial health and form a basis for developing the annual budget, ensuring resources are aligned to strategic intent and Council ambition remains affordable.	

## 1 Introduction and Background

- 1.1 The Council approved the annual budget together with indicative forward forecast at Budget Assembly February 2019. Since then work has been undertaken to reappraise the medium-term financial projections, ensuring the financial framework of the Council is aligned to strategy as defined within the Borough Manifesto and Corporate Plan.
- 1.2 Local government has faced growing concerns over its financial resilience and its commercial activity arising in response to funding need over recent months. This Strategy attached at Appendix A provides a summary of the Councils' financial journey to date and the Council's intended approach to ensure a balanced budget over the medium term. It also sets out the Council's arrangements for maintaining adequate levels of reserves and provides an overview of the risks that may impact on financial health.
- 1.3 The MTFS has been prepared within the national context of a changing financial framework anticipated from 2020/21 the impact on the Council is by no means clear. However, the MTFS brings together anticipated demands and pressures and sets out how the Council will ensure a balanced medium-term position.
- 1.4 The MTFS provides assurance on the intended use and the overall level of reserves and the extent of underpinning commercial and financial planning risks.

## 2 Overall Position

- 2.1 The table below provides a summary position of the gap for each year of the MTFS period and proposed arrangements to ensure a balanced MTFS.

£m	2020/21	2021/22	2022/23	2023/24
Gap in year (- headroom)	4.8	-3.7	2.3	2.2
Getting to the tipping point	-1.6			
Turning the curve			-2.0	-2.0
<b>Cumulative Gap</b>	<b>3.2</b>	<b>-0.5</b>	<b>-0.2</b>	<b>0</b>
To (+) From (-) Reserves	-3.2	0.5	0.2	0

- 2.2 The CFO has assessed the minimum level of general fund balances at £12m and the Council is forecasting reserves to continue to remain above this level throughout the MTFS even using pessimistic financial planning assumptions. In addition, the CFO is recommending the creation of an investment risk reserve in the event the Council undertakes commercial activity.

## 3 Medium-Term Financial Strategy

- 3.1 The key messages around delivery of a sustainable change model supported with transitional saving plans is emphasised within the document, with a recognition of the Council's intention to deliver a sustainable solution by improving outcomes.

- 3.2 There is an assumption of full achievement of previously approved transformation savings of £12.7m in 2020/21.
- 3.3 In addition, the national concerns affecting the sector around financial resilience and commercial risks are specifically addressed within the document to provide transparency and also assurance in the Council approach. At this stage in view of the fluidity of commercial activity, the financial basis of the commercial activity should be considered indicative.
- 3.4 The refreshed Reserves Policy with the intention to create an investment risk reserve proportionate to commercial risk is a key aspect of also providing assurance around organisational resilience.
- 3.5 The uncertainty of the local government landscape including the Spending Review 2019 (SR19), Fair Funding Review, 75% business rates retention, unknown position on the pension fund actuarial review may all impact on the financial position. In this regard, sensitivity assessments have been provided to inform the reader where relevant.
- 3.6 The MTFS includes proposals around changes to the Minimum Revenue Provision (MRP) policy which will be factored into the mid-year Treasury Management Strategy.
- 3.7 In terms of the headline approach to closing the gap, the approach is set out as:
- Sustainable change will start to impact the MTFS from 2022/23 with £4m cumulative benefit by 2023/24;
  - The transitional savings will be needed of £1.6m in 2020/21. These are yet unidentified and are in addition to the agreed £13m transformation savings already approved and planned;
  - Reserves will be used to bridge the funding gap to the extent the budget is balanced over the medium-term planning period. In other words, there is upfront drawdown of reserves on the expectation that future savings will enable future contributions to be made.

#### **4 Reserves**

- 4.1 General fund balances are set aside to provide an emergency fund for exceptional circumstances. This fund has recently been reviewed and assessed as a minimum of £12m. Currently, the Council has some £17m in this reserve.
- 4.2 The forward forecast of reserves is maintained by the CFO using assumptions on certain investment decisions and no continuing budget pressures emerging during the course of 2019/20. On this basis the Council anticipates the general fund balance being maintained at £17m over the MTFS period.
- 4.3 A more adverse budget position in 2019/20 could see the Budget Support Reserve being exhausted by the end of 2020/21 and requiring top ups from the General Fund in 2021/22. This adverse position however will not result in the minimum level of general fund balance being breached during the MTFS.
- 4.4 As part of the Council's review of risk and recognising the increasing commercial environment the Council is embarking on, an additional investment risk reserve is

proposed to be created once the Council has entered into commercial investment arrangements, this would be of a size that would ensure that the cost to the Council of a failure to an investment could be mitigated.

## **5 Risks**

- 5.1 Key risks are documented within the strategy in section 11. Some of these risks such as the general uncertainty within the national funding framework are outside the direct control of the Council. However, many risks can be mitigated through council action such as ensuring effective governance of the transformation programme and delivery against corporate plan objectives to turn the curve. In addition, it is proposed to create a new reserve to mitigate against commercial risk exposure.

## **6 Financial Implications**

- 6.1 This report sets out the financial position of the Council at the end of 2018/19.

## **7 Legal Implications**

Implications completed by Dr Paul Feild, Corporate Governance Lawyer

- 7.1 A local authority is required under the Local Government Finance Act 1992 to produce a 'balanced budget'. The current budget setting takes place in the context of significant and widely known reductions in public funding to local authorities. Where there are reductions or changes in service provision as a result of changes in the financial position the local authority is free to vary its policy and consequent service provision but at the same time must have regard to public law considerations in making any decision lawfully as any decision eventually taken is also subject to judicial review. Members would also wish in any event to ensure adherence as part of good governance. Specific legal advice may be required on the detailed implementation of any agreed savings options. Relevant legal considerations are identified below.
- 7.2 Whenever there are proposals for the closure or discontinuance of a service or services, there will be a need for appropriate consultation, so for example, if savings proposals will affect staffing then it will require consultation with Unions and staff. In addition to that Members will need to be satisfied that Equality Impact Assessments have been carried out before the proposals are decided by Cabinet. If at any point resort to constricting expenditure is required, it is important that due regard is given to statutory duties and responsibilities. The Council must have regard to:
- any existing contractual obligations covering current service provision. Such contractual obligations where they exist must be fulfilled or varied with agreement of current providers;
  - any legitimate expectations that persons already receiving a service (due to be cut) may have to either continue to receive the service or to be consulted directly before the service is withdrawn;
  - any rights which statute may have conferred on individuals and as a result of which the Council may be bound to continue its provision. This could be where

an assessment has been carried out for example for special educational needs statement of special educational needs in the education context);

- the impact on different groups affected by any changes to service provision as informed by relevant equality impact assessments;
- to any responses from stakeholders to consultation undertaken.

7.3 In relation to the impact on different groups, it should be noted that the Equality Act 2010 provides that a public authority must, in the exercise of its functions, have due regard to the need to eliminate discrimination and to advance equality of opportunity between persons who do and those who do not share a relevant 'protected characteristic'. This means an assessment needs to be carried out of the impact and a decision taken in the light of such information.

**Public Background Papers Used in the Preparation of the Report:**

None.

**List of Appendices:**

Appendix A – MTFs and Reserves Policy 2019/20 to 2023/24

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# Medium Term Financial Strategy 2019/20 to 2023/24



## Reserves policy 2019/20 to 2023/24

## Message from Cllr Dominic Twomey, Deputy Leader and Cabinet Member for Finance, Performance and Core Services



This government's cuts to funding for local councils, continues to have a negative impact on services and affects people up and down the country. Here in Barking and Dagenham, we are no different and, in some instances, I would say we are significantly worse off.

We are working hard to deliver the services our community need and deserve, but we are facing huge financial challenges that mean we will be required to make tough decisions. We also face uncertainty in our funding with anticipated changes by national government not fully known. This makes it even harder to accurately budget but despite this, we need to plan and give our communities the best possible life chances both now and for the future.

In the last few years, we have done everything possible to protect key services, but the reality is we have had to save £153 million since 2010 and need to save even more over the next three years and beyond.

Back in 2014, we faced our graph of doom and considered what the bare minimum provision of services would look like and we decided this was not an option for our staff, our residents or us and we embarked on another path.

We decided that while cutting services might save the organisation, it would mean we could not deliver on our promise – the promise we had made to residents back in 2014 – to deliver a better future.

Our vision is one of a future where families are proud to call Barking Dagenham home; where they can have dreams and aspirations for their children and themselves and where no one is left behind.

Since 2014 we have taken a different path – a new form of civic socialism. In the last 5 years, here at Barking and Dagenham we have been experimenting with new and innovative forms of service provision and this in turn is breathing new life into the borough. We have created a new kind of council, not the traditional hierarchy but one created to meet the needs of our communities, it is made up of in house services as well as a number of wholly owned companies.

We created Community Solutions by bringing together 16 services that are there to help people help themselves and in 2018 they prevented 35% more households from becoming homeless compared to the previous year and the use of temporary accommodation has also dropped by 12%, yet we also achieved over £3m savings in service provision.

Today our uniqueness lies in our potential to grow - and grow rapidly – it is harnessing that potential and making sure everyone gets the benefit that is the challenge we face today.

To do this, we need to encourage genuinely inclusive growth and shape a new local economy that, first and foremost, makes Barking and Dagenham an affordable, desirable, safe and empowering place to live for people of all incomes and backgrounds.

To achieve this we formed Be First a brand-new council owned regeneration company. It uses the flexibility of the private sector to speed up regeneration while maintaining the ethos of the public sector to ensure all growth is inclusive and on our terms. This company will, over the next four years bring inward investment and financial returns into the borough alongside significant and lasting place making.

We have created Reside, a new form of council-owned affordable landlord that currently offers over 800 private rented properties all at sub market rental levels with rates dependent upon the income of those renting. We are on track to increase the Reside stock by another 2,000 truly affordable homes for local people over the next 4 years.

Our Medium Term Financial Strategy does not dodge the financial challenges that we face and we will continue to apply the principles that have held us in good stead these past years:

- ↘ No more salami slicing
- ↘ Taking the community with us
- ↘ Innovation in delivery
- ↘ No stone unturned
- ↘ No one left behind
- ↘ A financial strategy that grasps opportunities.

## 1. Background

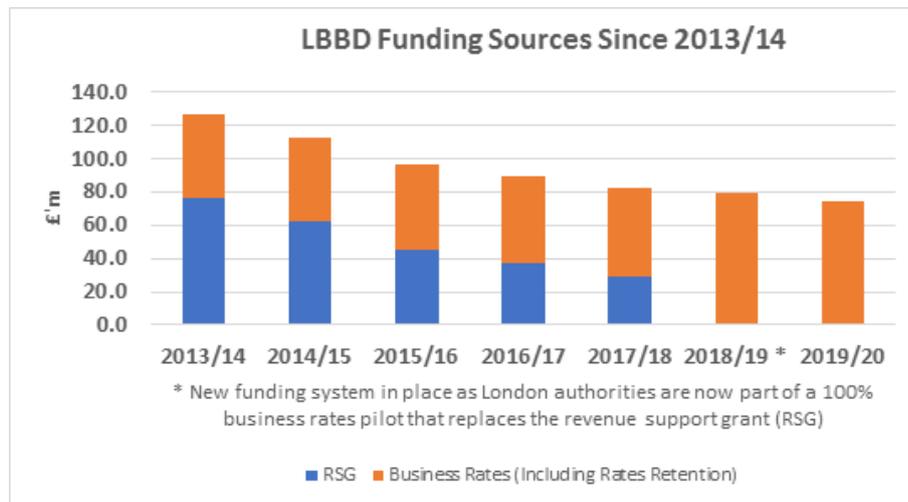
- 1.1. This strategy sets out an overarching framework to be used to give context to future decisions for resource allocation in the pursuit of our strategic objective of ensuring One borough; One Community, where no one gets left behind.
- 1.2. Fundamentally, by bringing together our strategic intent and current understanding of financial direction of travel, we are able to not only fulfil our responsibilities to achieve the objectives of the Borough Manifesto but we are able to do this sustainably over the medium term.
- 1.3. Medium term financial planning serves as a key strategic planning tool that will be refreshed annually and will form the foundation of the annual budget setting process for the General Fund up to and including 2023/24.
- 1.4. This is a core council document and is part and parcel of a much wider ambition for Barking and Dagenham. To fully appreciate the ambition of the Council, the MTFS should be read in conjunction with the following key documents:
  - Barking and Dagenham Together – the Borough Manifesto
  - Corporate Plan 2018-22
  - Health and Wellbeing Strategy 2019-23
  - The Capital Investment Strategy and prudential indicators 2019 -2023
  - The Capital Programme 2019-2023
  - The Treasury Management Strategy Statement 2019/20
  - Housing Revenue Account 30 year Business Plan
- 1.5. In recent years, local government as a whole has faced changing and challenging times with continuing government austerity drastically reducing core funding yet with increasing demand for services. Not surprisingly, national headlines have highlighted concerns over the financial resilience of some councils. By setting out our key challenges and more importantly how they will be addressed in an open and transparent way, it helps to inform our community in the way in which available public money will be used, and protected, sustainably.
- 1.6. Similarly, the national direction towards sectoral financial self-sufficiency has resulted in an emerging and growing appetite for commercialisation and commercial investment. This is an approach that is not without risk. Again, this MTFS is intended to provide an overview and highlight any decisions made by Barking and Dagenham Council that are commercial in nature and how related risks are understood and managed.

## 2. The National Picture and its impact on Barking and Dagenham

2.1. Public sector austerity has been with us following the Great Recession in 2008, with the local government sector having been hit particularly hard. A recent NAO report<sup>1</sup> highlighted the following key facts

- ↘ 49% reduction (real terms) of government funding between 2010-11 and 2017-18;
- ↘ 29% reduction (real terms) in spending power (ie after increases in council tax have been considered) over the same period;
- ↘ 33% real terms reduction in spending on non-social care services;
- ↘ 66% of local authorities with social care responsibilities drew down their reserves in 2016/17;

2.2. Given the financial challenge in the system, the government offered to guarantee a minimum level of funding to council's, subject to submitting a council approved "Efficiency Plan" for the period 2016/17 to 2019/20. These plans are now reaching the end of their useful life and medium-term financial uncertainty for the period beyond 2019/20 has now returned to the sector. That said, even the adoption of an efficiency plan did not protect funding levels for Barking and Dagenham, which have reduced by £52m since 2013/14, a reduction of 40%:



2.3. At the time of writing, there is also uncertainty as to whether the next three-year Spending Review from 2020/21 will go ahead as planned, perhaps opting for a one-year position instead, given Brexit turmoil. Notwithstanding this the LGA have submitted to government<sup>2</sup> a strong case for additional funding of £7.8bn by 2025. This represents a funding gap based on the same standard of service as at 2017/18 effectively keeping services at stand still. It does not include any extra funding for investment in services nor does it reverse reductions that have been made previously. The outcome of the Spending Review and overall national control totals is not expected to be known until the end of 2019 and given other political priorities in the public sector such as the NHS, police and security, the expected outlook is one of continuing financial pressures particularly affecting social care, children's services and homelessness.

1. Financial Sustainability of Local Authorities 2018

2. Local Government Funding moving the conversation on, June 2018

- 2.4.** The government is also undertaking a review of the distribution of resources across local government, the Fair Funding review. This review focusses on how resources are distributed between local authorities rather than providing additional new monies. However, the outcome of any Fair Funding review will only provide a sustainable position if it does go hand in hand with additional resources to help plug the future funding gap. Further information on how the Fair Funding model will be rolled out from 2020/21 is expected during the summer of 2019. Consultation processes to date indicate that less emphasis will be placed on resource allocation using deprivation with a greater emphasis on general population distribution, how this will impact on Barking and Dagenham with high levels of deprivation but also with population growth is by no means clear.
- 2.5.** Local government is increasingly expected to be financially self-reliant through the generation of its own sources of funding primarily council tax and business rates. Whilst there is some local discretion on how these revenues can be raised locally, these are in essence national schemes with strict controls in place.
- 2.6.** The council tax scheme was introduced following the demise of the community charge in 1990. Council tax income is in effect the product of the number and type of dwellings; and, the council tax charge. The council tax charges can only be increased within permissible limits each year; these limits are set by government. Any authority wishing to increase its rate above the limit is required to undertake a referendum. Here at Barking and Dagenham, we are committed to keeping council tax increases as low as possible mindful of the financial burdens many households face, although the current working assumption is for council tax increases to continue at about 3% each year.
- 2.7.** Council tax income can be increased by increasing the number of dwellings in the borough, a key council priority for the borough. In essence, the more homes we create, the more revenue we obtain for core services, a win-win.
- 2.8.** In 2013/14, the government introduced a 50% business rate retention scheme, which meant councils could keep half of any additional business rates over a “baseline” figure as an incentive. Local authorities do not have any power to apply general increases in business rates in their area, subsequently business rates income grows essentially by promoting growth and increasing business space. A core council priority here at Barking and Dagenham.
- 2.9.** Since then, local pools have formed with many models in place to promote devolution. As a result, the business rates system is complex and varies across the country. For 2019/20, Barking and Dagenham is a constituent member of the London pool where 75% of business rates are retained. This precedes national plans to implement a 75% retention scheme from 2020/21. From next year, under current proposals however as part of the rollout of the 75% business rate retention scheme, the government intends to phase out core government funding and transfer new responsibilities to local authorities. The impact on Barking and Dagenham on this is unclear at this stage although indicative figures on the new model have been developed through an advisory group and these have been used to inform the MTFs projection.
- 2.10.** The ability to grow and raise business rates depends on the type and nature of businesses in the area and the attractiveness of the place for inward investment. In recent years, there has been a marked change in the nature of business with the government offering reliefs for certain business sectors such as retail and small businesses. Increasingly, the local government bodies are raising concerns over the longevity of this form of tax to fund local services.

### 3. Barking and Dagenham

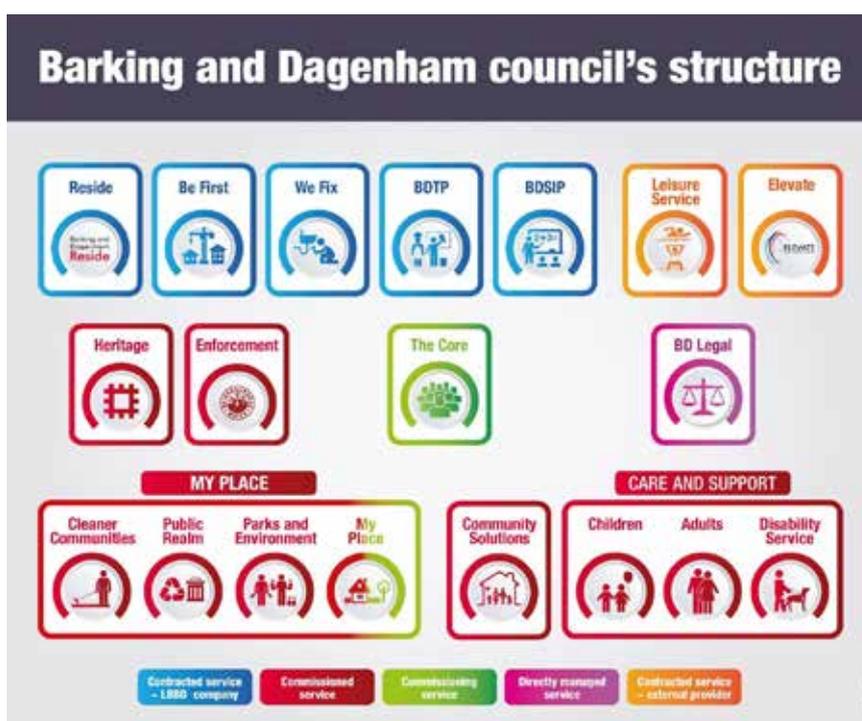
- 3.1. Barking and Dagenham is at a key moment in its history. London has grown unprecedently in the last 20 years and Barking and Dagenham is the next obvious growth point as London continues to move East. The Council's Growth Commission report entitled 'No-one left behind in the pursuit of growth' (2016) confirmed this and the borough has already started seeing growth accelerate in recent years. The Council has a unique opportunity to ensure growth is inclusive and leads to improved outcomes for residents, where no-one is left behind.
- 3.2. Over the past 15 years, Barking and Dagenham has become one of the fastest changing communities in Britain. Between 2001 and 2017 the population rose from 164,000 to 210,000 and is projected to rise to £275,000 by 2037. Within this overall increase is a picture of rapid movement of people. Between 2012 and 2014 approximately 50,000 new residents made the borough their home and roughly the same number left, meaning that – in line with the average London rate – the turnover was almost a quarter of the total population.
- 3.3. The population is also more diverse than 15 years ago. While the borough was previously predominantly White British, since 2001 the proportion of the population from minority ethnic backgrounds has increased from 15% to 50%. The population is also very young - the birth rate is the highest in London and we have the highest proportion of 0-16 years in the UK.
- 3.4. People in our borough are more likely to die earlier, have poorer health, and lower levels of education and skills, than across London. Too many are insufficiently skilled, too many are in low paid work, and too many struggle to find suitable homes that they can afford. Economic hardship combined with population diversification has challenged community cohesion in Barking and Dagenham.
- 3.5. In July 2017, Barking and Dagenham Together: The Borough Manifesto was launched. It was borne out of the Growth Commission recommendation to develop a long-term vision for the Borough, outlining how it will grow, prosper and be transformed into a place people are proud to live, work, study and stay. Over 3,000 residents came together to shape this shared, 20-year vision, which is owned and delivered by stakeholders from the public, private and voluntary sectors through the Barking and Dagenham Delivery Partnership (BDDP).
- 3.6. The targets set out in the manifesto are ambitious and require the Council along with its partners to play their part. The manifesto is structured around ten key themes:
  - ↳ Employment, Skills and Enterprise
  - ↳ Education
  - ↳ Regeneration
  - ↳ Housing
  - ↳ Health and Social Care
  - ↳ Community and Cohesion
  - ↳ Environment Priorities
  - ↳ Crime and Safety
  - ↳ Fairness
  - ↳ Arts Culture and Leisure.

**3.7.** The Corporate Plan 2018-22 sets out the Council’s contribution to deliver the Borough Manifesto, consolidating the progress made with the New Kind of Council and achieving real change for residents. The priorities focus on four key themes:

- ↳ A New Kind of Council – including building a well-run organisation, ensuring relentlessly reliable services and developing place-based partnerships
- ↳ Empowering People – including enabling greater independence whilst protecting the most vulnerable, strengthening services for all and intervening earlier
- ↳ Inclusive Growth – including developing an aspirational and affordable housing offer, shaping great places and strong communities through regeneration and encouraging enterprise and enabling employment.
- ↳ Citizenship and Participation – including harnessing culture and increasing opportunity, encouraging civic pride and social responsibility and strengthening partnerships, participation and a place-based approach.

**3.8.** Work is now underway to build on these themes and develop overarching strategies that allow the council to “turn the curve” to deliver sustainable change and achieve the mission that **by 2037, Barking and Dagenham residents have the same opportunities and life chances as others in the capital.**

**3.9.** The Council has made considerable progress in its transformation programme which has significantly changed the way services are delivered. This New Kind of Council (shown below) created a raft of new service blocks and companies to fundamentally change the way we deliver public services and meet the needs of residents. These companies are generating vital revenues, protecting jobs and intervening in private markets that are failing both local workers and the wider community. It will combine the enduring core values of the public sector, with the community involvement and flexibility of the voluntary sector, and the commercial mindedness of the private sector.



## 4. An overview of financial performance 2018/19

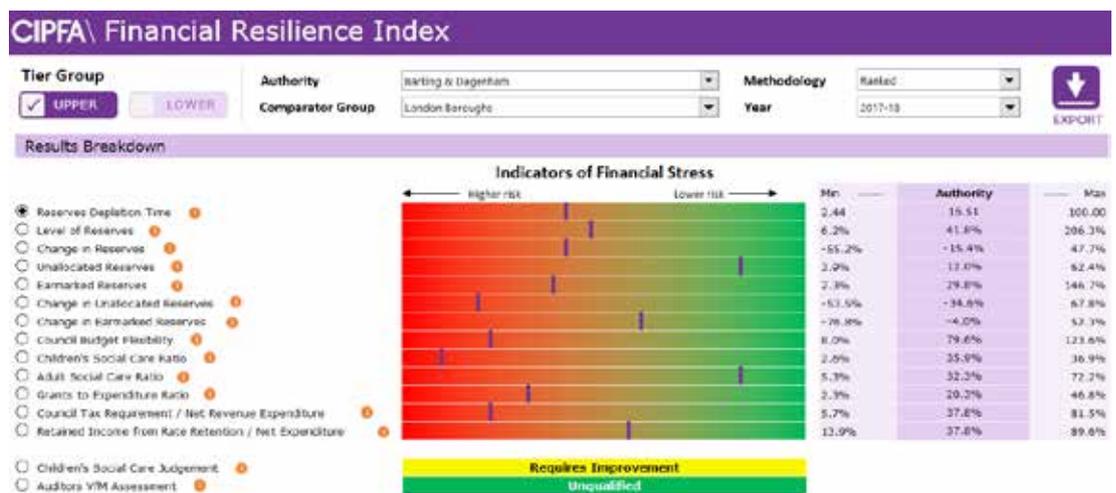
- 4.1. The overall end of year position for the general fund was an overspend of £2.9m, about 2% of the budget. Whilst this is an improved position from that presented in the monthly reports to Cabinet during the year, overspends are significant in the demand led services of Adults, Children's and Disabilities which together have an overspend of £9.9m in 2018/19. The impact of this increased demand to protect the most vulnerable and to provide the right support is expected to continue into the future years with some additional funding having been provided in 2019/20 as part of budget setting; with further increases to be considered as part of this MTFS.
- 4.2. Offsetting savings have been achieved through an improved position on the Collection Fund as we have received more council tax and business rates than we had expected of £3.4m. In addition, the Council had set aside a small contingency in the event of savings and income targets not being fully achieved of £3m; and also, slippage in the capital programme resulted in reduced financing costs.
- 4.3. The net overspend of £2.9m has been met by using the budget support reserve. At the end of the 2018/19, this reserve stood at £12.3m. Overall non ringfenced reserves increased during the course of the year by £2.7m and now stand at about £63m, equivalent to 43% of the budget.



## 5. Financial Resilience

5.1. During 2018, CIPFA introduced a Financial Resilience Index in the wake of the high-profile financial failure of one county council and following NAO<sup>3</sup> concerns of heightened risks of more councils over the next four years falling into financial difficulty as a result of budget pressures. The CIPFA Resilience Index is not intended to provide comparative ranking of council's financial health but identify areas where the Council may come under financial stress. The Resilience Index focusses on key areas and the output is shown below:

- The overall level of reserves in relation to spend
- The rate at which reserves are being spent or run down
- The amount of budget that is demand led or fixed cost such as social care or debt repayment
- The council's ability to grow its own local sources of finance either through council tax or business rates

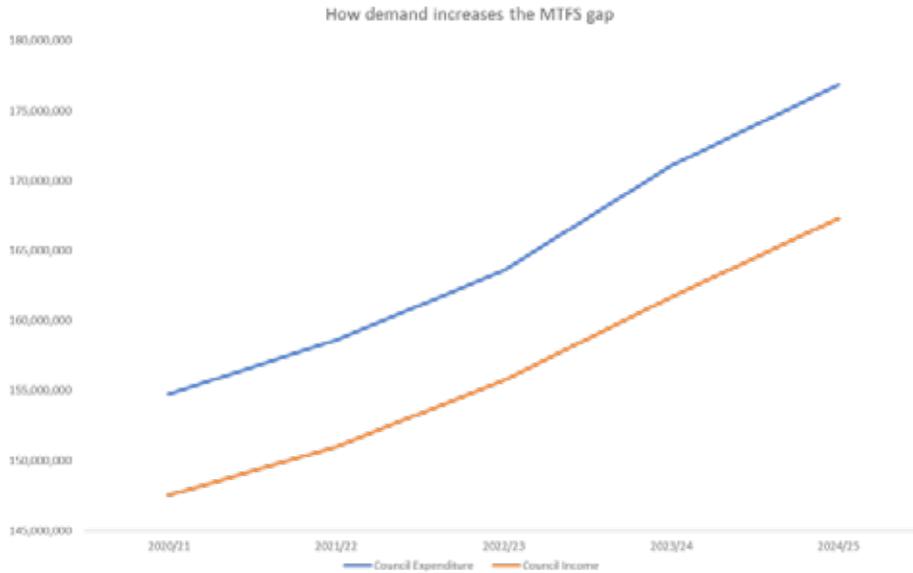


5.2. Fundamentally, an overall adequate level of reserves forms the bedrock of financial health providing a key buffer to deal with any shocks that may arise. The Council has increased non ringfenced reserves during 2018/19 by £2.7m, they now stand at nearly £63m. This includes general balances of £17m which remain unused, the current CFO view is general balances should be set at a minimum of £12m.

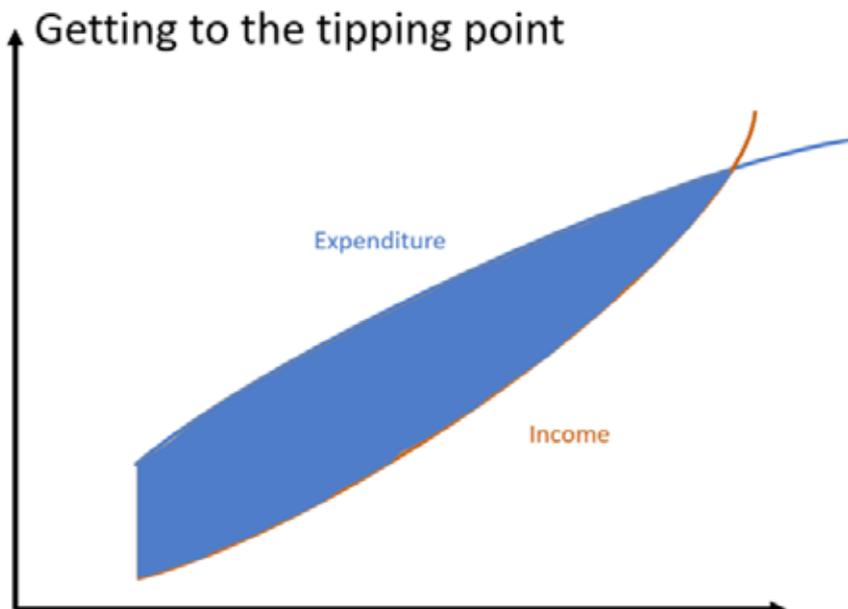
5.3. The Financial Resilience Index further strengthens our strategic intent of turning the curve though those priorities encompassed within the Borough Manifesto and Corporate Plan. The best way to deliver sustainable change and reduce demand led cost pressures is through an approach that delivers our objectives and mission to promote personal resilience, independence, and opportunity; and also, through the creation of a better place to live and work.

## 6. The Councils approach to sustainability

- 6.1. We recognise that the current trajectory given the reality of the national position cannot continue. In essence, if we continue as we are we will have a budget deficit each year as demand for services continues to outstrip any additional income we can generate. If we do nothing, as the graph below illustrates, we will continue to have financial pressures, effectively creating a downward spiral of circumstances in Barking and Dagenham the place, our people and our council, calling heavily on reserves:



- 6.2. The Council has created a set of strategic interventions through the borough manifesto, corporate plan and related frameworks that will in time enable the fulfilment of our ambition to improve life chances but will also deliver a strong financially resilient council. The Council aims to turn the curve and reach a place where demand led expenditure starts to fall and income starts to increase, a tipping point where the impact of austerity starts to be reversed and overcome.



- 6.3.** Until the tipping point is reached, a series of savings will be made to maintain an annually balanced budget, these could include options to review the way the budget has been constructed by reviewing base budgets and income streams but could include return on commercial activity and investments.
- 6.4.** If we accelerate the delivery of our Borough Manifesto and Corporate Plan, the tipping point can be brought forward earlier, if there is a delay to delivery the tipping point will be put back and further savings will need to be made.



## 7. Financial Forecast 2020/21 to 2023/24

### Cost

- 7.1. A refreshed base financial position is summarised below. This reflects the current trajectory of unavoidable cost increases; service demands and strategic investment as well anticipated population and housing growth.

£m (in year)	2020/21	2021/22	2022/23	2023/24
Unavoidable costs	3.1	1.1	1.2	1.3
Pay and Price inflation	3.0	3.0	3.0	3.0
Service Demands	12.0	3.0	2.9	2.6
Strategic Investment	0.8	-0.1	-0.1	0
<b>Total cost increases</b>	<b>18.9</b>	<b>7.0</b>	<b>7.0</b>	<b>6.9</b>

- 7.2. Unavoidable cost pressures include the revenue impact of the capital programme, the ELWA levy as well as possible pension costs. With regard to pension costs, the local government pension scheme is currently under its three year (triennial) actuarial review with new contribution rates to be determined from 2020.
- 7.3. Pay award has been assumed at 2% per annum and the council currently runs with an average 5% vacancy factor. Price inflation has been included for contractual obligations only, such as the annual uplift on care provision.
- 7.4. We are seeing evidence of the growing impact of the rollout of universal credit on the borough, in particular affecting demand for our community solutions and housing services with growing homelessness requests. These are placing £1m pressure on the budget from 2020/21, along with the continuing demands that we have seen in previous years affecting demand for adults, children's and disabilities services of about £9m in 2020/21 and additional £2.1m thereafter. Further, to deliver sustained improvement within children's services, a new operating model to improve social work provision and practice requires an additional £1.5m from 2020/21. Finally, due to expected population growth in the borough we expect to see additional demand over the MTFS for public realm (refuse collection and street cleansing) of about £1m.
- 7.5. Strategic investment is required to pump prime the delivery of the strategic themes required as part of delivering the Borough Manifesto and Corporate Plan. These relate to investment in participation and engagement activity of about £0.4m in 2020/21 but reducing in future years and also investment on community safety and regulatory services of £0.4m from 2020/21.

### Core Funding

- 7.6. A forecast position given the uncertainty in the national position for funding is shown below. In essence, the council tax forecast position is based on expected growth in housing over the MTFS period and an assumed general council tax increase of 3%, there are no assumptions factored into the funding forecast around social care precept.

- 7.7.** The forecast position with regard to business rates has been developed using the LG Futures model for a 75% business rate scheme. In this model, it has been assumed that certain grants such as winter pressures and social care grant will no longer continue.

£m ( in year)	2020/21	2021/22	2022/23	2023/24
Additional Council Tax	-2.8	-2.9	-3.0	-3.0
Additional Business Rates/ Grants	2.3	-1.6	-1.7	-1.7
<b>Total funding increase</b>	<b>-0.5</b>	<b>-4.5</b>	<b>-4.7</b>	<b>-4.7</b>

### Transformation

- 7.8.** Since 2016/17, the council has made significant progress in its transformation to create a New Kind of Council. The current transformation programme includes savings of £48.8m between 2016/17 and 2020/21. We have now delivered over £28.5m up to the end of 2018/19 and expect to deliver £7.6m during 2019/20 and a further £12.6m in 2020/21.
- 7.9.** The transformation programme is wide ranging. The most significant area for further transformation during 2020/21 is the improvement to the core functions of the Council and the transfer of the Elevate services inhouse. This is expected to deliver total transformation savings of £4.3m in 2020/21. Be First, a wholly owned council company is expected to contribute a further £2.2m in 2020/21 along with an additional £1.4m from the Investment and Acquisition strategy. Savings within demand led services are also expected through £1.5m in Children's and £0.3m in Disability services. Whilst work is progressing to deliver the previously approved transformation programme, the urgency will need to be maintained to ensure that these savings are delivered in a timely way. Programme governance arrangements are in place to ensure oversight and ensure pace and visibility of progress.

### Gap analysis

- 7.10.** The Council aims to turn the curve and reach a place where demand led expenditure starts to fall and income starts to increase, a tipping point where the impact of austerity starts to be reversed and overcome. To get us to that position, several short-term interventions are required. These include developing commercial investments that will deliver investment income over the medium term and additional returns from our wholly owned companies. The delivery of these is already in hand. Further technical changes particularly around some of our treasury management and accounting policies are also being reviewed and can be adopted too.
- 7.11.** The potential gap position before any new savings is shown below. This is based on our latest understanding of the current financial planning position:

Gap in year £m (in year)	2020/21	2021/22	2022/23	2023/24
Cost increases	18.9	7.0	7.0	6.9
Funding increases	-0.5	-4.5	-4.7	-4.7
Approved transformation	-12.6			
Commercial and technical	-1.0	-6.2		
<b>Gap in year</b>	<b>4.8</b>	<b>-3.7</b>	<b>2.3</b>	<b>2.2</b>

**7.12.** There is the potential for changes in the financial planning assumptions used and the gap may be affected as follows:

- Every 1% change in pay award will impact the position by about £1m, either up or down;
- Every 1% fluctuation in business rates income will add or reduce about £0.6m.
- Every 1% change in council tax increases will add or reduce about £0.7m.



## 8. Our approach to balancing the budget over the medium term 2020/21 to 2023/24

8.1. Our approach to balancing the MTFs over the period as shown below will be through three routes:

- Savings that will be generated to get us to the tipping point of sustainable growth, a short-term bridge;
- Delivery of the strategic mission and corporate plan priorities that turn the curve sustainably for the long term;
- The prudent use of reserves to bridge funding shortfall and give capacity to the delivery of corporate plan priorities.

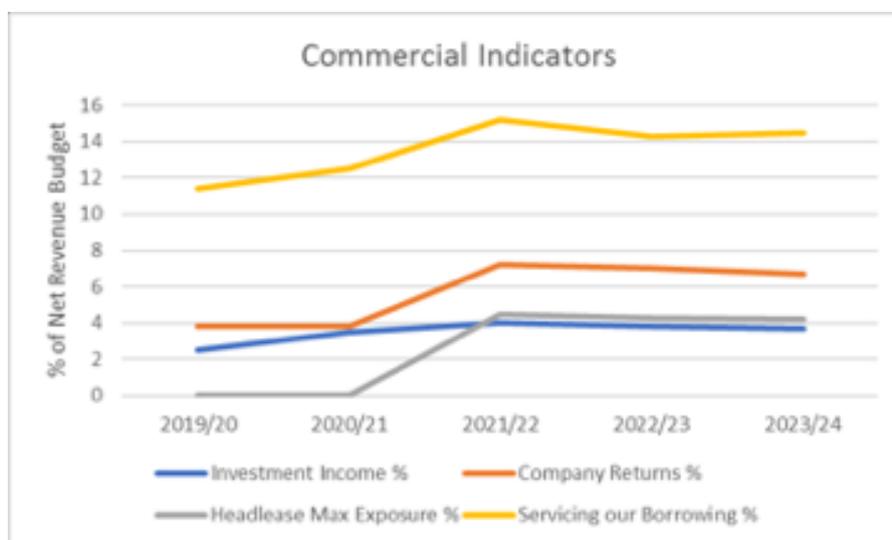
£m	2020/21	2021/22	2022/23	2023/24
Gap in year (- headroom)	4.8	-3.7	2.3	2.2
Getting to the tipping point	-1.6			
Turning the curve			-2.0	-2.0
<b>Cumulative Gap</b>	<b>3.2</b>	<b>-0.5</b>	<b>-0.2</b>	<b>0</b>
To (+) From (-) Reserves	-3.2	0.5	0.2	0

## 9. Reserves policy 2019/20 to 2023/24

- 9.1. Reserves can be classed as general reserve or earmarked reserves and they represent funds that are not part of the normal recurring budget but are distinct “pots” of finite funds.
- 9.2. The level of reserves is a key component of a robust and prudent medium-term financial strategy ensuring that funds are set aside for a specific purposes or can be called upon to provide a buffer in the event of any unforeseen financial pressure. They are in effect the “shock absorbers” of the council’s finances and are the last line of defence to ensure resilience.
- 9.3. The council has a statutory duty under the Local Government Finance Act 1972 to determine the level of General Fund balances and reserves it maintains before it decides on the level of council tax. The level of balances should be based on the council’s own specific circumstances taking into account the risk exposure of the Council.
- 9.4. General reserves are set aside to provide an emergency fund for exceptional circumstances. This fund has recently been reviewed and assessed as having a minimum requirement of £12m. This money is set aside as a fund of last resort when all other reserves or budgets have been depleted. Currently, the council has some £17m in this reserve.
- 9.5. Other earmarked reserves are held for specific purposes. Some reserves such as dedicated schools grant are held for statutory purposes outside the direct control of the Council. Other non-ringfenced reserves are held for strategic purposes or to support operational delivery of services. For us, the key strategic reserve is the budget support reserve, which is intended to even out fluctuations year on year in the council financial performance. The use of this reserve is overseen by the CFO.
- 9.6. The day to day running of operational reserves is managed by the relevant budget holder under council delegation arrangements. These cover a wide range of activity – from elections, to replacing IT, to having an insurance fund.
- 9.7. Reserves should not be used to pay for continuing expenditure but are available as funding for one off items, invest to save initiatives or to provide time-limited support to manage transition.
- 9.8. As part of the Council’s review of risk and recognising the increasing commercial environment the Council is embarking on, an additional investment risk reserve is proposed to be created once the council has entered into commercial investment arrangements, this would be of a size to ensure risks are mitigated.
- 9.9. The forward forecast of reserves is maintained by the CFO. Using assumptions on certain investment decisions and no continuing budget pressures emerging during 2019/20, the Council anticipates the budget support reserve being no lower than £8m over the MTFS period with the general fund balance being maintained at £17m.
- 9.10. A more adverse budget position in 2019/20 could see the budget support reserve being exhausted by the end of 2020/21 and requiring top ups from the General Fund in 2021/22. This adverse position however will not result in the minimum level of general fund balance being breached during the MTFS.

## 10. Using our balance sheet

- 10.1.** In recent years, and in responding to government funding reductions, some authorities have sought to replace lost revenues by taking a more commercial approach defined as “undertaking activities which involve risk with the expectation of generating additional income or capital gain.”
- 10.2.** As a result, there has been some concern nationally by government over the extent to which councils are taking long term risks and whether the extent of commercial activity is proportionate. In response, the government revised its guidance to local authorities on investments in early 2018.
- 10.3.** Concerns over local authorities’ extent of borrowing in advance of need to invest into property for commercial gain has prompted a NAO inquiry into local government practice. The findings are awaited.
- 10.4.** The Council understands these concerns and recognises the need to put in place additional controls and indicators that complement the existing prudential indicators contained with the treasury management strategy statement. These provide extra safeguards and inform the extent of stress on the revenue budget. These new metrics will be factored into a revised TMSS and are intended to support an overall judgement on the balance of risks, they include:
- ✘ The proportionality test of how much commercial income we receive both from our council owned companies and from our Investment and Acquisition Strategy in relation to other income;
  - ✘ The maximum risk exposure arising from head lease or income strip deals. These are arrangements where the Council acts as an intermediary between an operator and investor to obtain a return;
  - ✘ The cost of servicing borrowing levels. This includes the Minimum Revenue Provision (revised) and interest payable for the debt in relation to general fund activity.
- 10.5.** The current trajectory of our commercial activities suggests the impact on our revenue budget as shown. The biggest impact being the overall level of borrowing, which is expected to peak at 15% in 2021/22:



- 10.6. Significantly to mitigate against commercial risk, the Council will be creating a new investment risk reserve, which will be proportionate to the extent of risk and possible loss on returns or head lease arrangements.
- 10.7. In addition, to further understand the extent of borrowing in relation to revenue budget, the non HRA Capital Financing Requirement is shown below:

Non HRA	2019/20	2020/21	2021/22	2022/23
CFR £m	584	790	924	874
Ratio of CFR to NRE	3.9	5.3	6.2	5.9

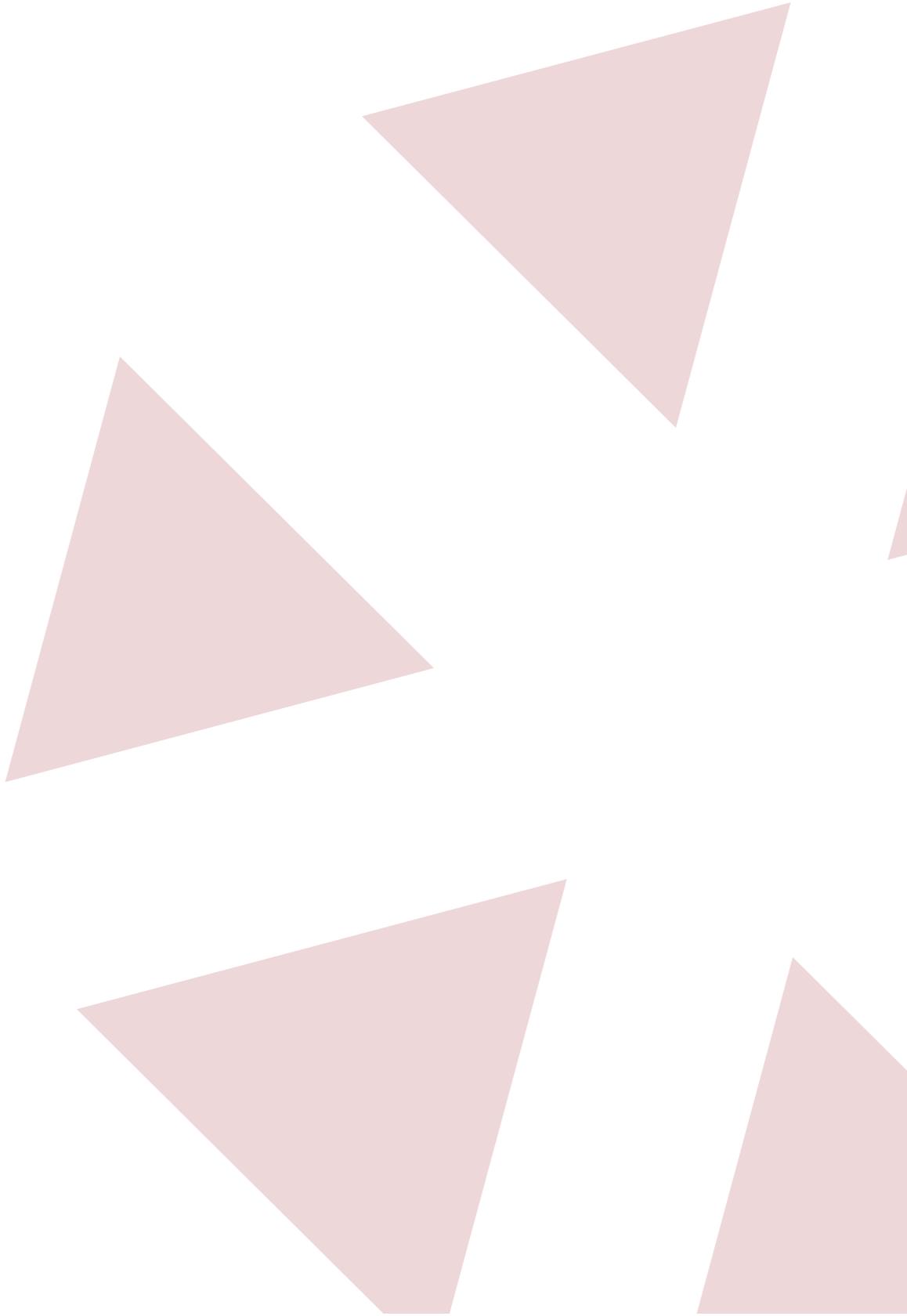


## 11. Risks

### 11.1. Significant risk areas to this MTFS are:

Risk	Mitigation	Assessment
<b>Funding uncertainty given the SR 2019, Fair Funding Review and 75% business rates scheme</b>	<p>To horizon scan and maintain intelligence on national developments seeking to influence the debate</p> <p>Maintain an up to date rolling MTFS</p> <p>Refresh gap analysis along with saving plans</p>	HIGH
<b>Delivery of the approved transformation programme</b>	<p>Ensure effective programme management to ensure timely delivery</p> <p>Appropriate governance oversight and corrective action where necessary</p>	HIGH
<b>Achievement of the Borough Manifesto to turn the curves</b>	<p>Development of strategic frameworks with SMART deliverables. That will deliver the budget targets, perhaps with rapid result measures to expedite or early implementers to stress test.</p> <p>Alternative savings to be found in the event of delay</p> <p>Governance arrangements to monitor progress</p>	HIGH
<b>Commercial risk</b>	<p>Effective due diligence on new commercial investments</p> <p>Robust appraisal of company business plans and returns</p> <p>Adequacy of reserves as a back stop</p>	MEDIUM

<b>Risk</b>	<b>Mitigation</b>	<b>Assessment</b>
<b>Growing demand</b>	<p>Assumptions have factored into the MTFS demand increases in line with current demands and anticipated population growth.</p> <p>Exceptional demands will require spending control within department or against corporate items</p> <p>Use of departmental or budget support reserve</p>	MEDIUM
<b>Interest rate exposure</b>	Council borrowing currently all fixed rate	LOW
<b>Company buy back of support services</b>	Up to date the MTFS, reduce marginal costs	LOW
<b>Council tax – tax base and increase</b>	Monitor tax base returns plus government capping rules and refresh MTFS	LOW



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## CABINET

16 July 2019

<b>Title:</b> Adults' Care and Support Charging Policy	
<b>Report of the Cabinet Member for Social Care and Health Integration</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> Yes
<b>Report Author:</b> Michael Fenn, Senior Commissioning Manager, Adults' Care and Support	<b>Contact Details:</b> Tel: 0208 227 2619 E-mail: <a href="mailto:Michael.Fenn@lbbd.gov.uk">Michael.Fenn@lbbd.gov.uk</a>
<b>Accountable Director:</b> Mark Tyson, Commissioning Director, Adults' Care and Support	
<b>Accountable Strategic Leadership Director:</b> Elaine Allegretti, Director of People and Resilience	
<p><b>Summary</b></p> <p>The Care and Support Charging Policy is in place to ensure that individuals, who are receiving community-based services from Barking and Dagenham's Adults' Care and Support, pay a fair contribution towards the cost of their care and support.</p> <p>The policy was initially introduced in 2011, in response to Government guidance on the charging system. The policy was reviewed and amended in 2015, following the introduction of the Care Act 2014.</p> <p>Sections 14 and 17 of the Care Act (2014) give local authorities the discretionary powers to charge for the care and support services provided to service users and carers. The Act includes a number of parameters which councils must adhere to if they take the decision to charge service users. However, beyond these, there is flexibility in the way each local authority can charge service users.</p> <p>This report proposes changes to the Adults' Care and Support Charging Policy. These proposals will have an impact on the way service users are financially assessed and in turn, the amount some individuals will be required to contribute towards the cost of their care. Importantly, the newly drafted policy is much clearer and easier to understand. Charging for social care services is a complex area so this will be a significant improvement. The changes will raise additional income for the Council at a time when, despite government grants and the additional council tax precept for social care, there are rising costs and demand pressures which are outstripping these income sources.</p> <p>These changes affect the charging policy as it applies to community-based services (broadly, homecare, personal assistants, day care, supported living and extra care). There is a national framework which governs the charging for residential and nursing care.</p>	

## Recommendation(s)

The Cabinet is recommended to:

- (i) Agree the proposed final Adults' Care and Support Charging Policy at Appendix 2 of the report;
- (ii) Delegate authority to the Director of People and Resilience, in consultation with the Cabinet Member for Social Care and Health Integration, to further approve any minor alterations to the proposed final Adults' Care and Support Charging Policy at Appendix 2; and
- (iii) Delegate authority to the Director of People and Resilience, in consultation with the Cabinet Member for Social Care and Health Integration, to approve a Disability Related Expenditure Policy and a related Guidance Note for the Council.

## Reason(s)

The Adults' Care and Support Charging Policy has been reviewed for the first time since it was refreshed in April 2015 following the introduction of the Care Act. As a result of this review a refreshed policy, which includes a number of material changes, is being proposed.

The proposed changes to the charging policy will also help the Council to work towards the vision of One borough; One community; No-one left behind in the following ways:

**A new kind of council** – The proposals detailed in this briefing will help to improve the policy, not only making it clearer for residents but also making it easier for the council to administer.

**Empowering People** – The proposed changes reframe the policy, moving away from it being solely the responsibility of the council to pay for social care to it being the responsibility of the individual to pay for their care, such they have the means to do so. Not only does this empower people to be the driving force behind the care and support they receive it also is in line with ethos of Community Solutions.

**Inclusive growth** – Making the proposed changes will provide the Council with the means to uplift the rates it pays for care and support to ensure that providers are remunerating their staff to an acceptable level. Due to the nature of care and support many of the individuals employed by the providers used by the local authority live in the borough of Barking and Dagenham.

**Citizenship and partnership** – As part reviewing the charging policy, we will also be moving from paying for services net of client contributions to paying them gross of contributions. This move will mean that the Local Authority will be the party who collects contributions from service users in all cases where currently, for some services such as residential and nursing care the provider are the ones collecting the money. Moving to this model will be remove the burden of collecting the income from our provider market.

## 1. Introduction and Background

- 1.1 The Adults' Care and Support Charging Policy was initially introduced in 2011, in response to Government guidance on the charging system. The policy was reviewed and amended in 2015, following the introduction of the Care Act 2014, and further changes made.

### The Care Act 2014

- 1.2 The way in which a local authority can charge individuals for the community-based services they receive is governed by the Care Act (2014). It is a complex area with many aspects relating to what can and can't be charged for, and what income and expenditure is taken into account. In relation to the charging for services the Act states:

- The overarching principle is that people should pay what they can afford.
- Where a Council decides to charge it must follow the Care and Support (Charging and Assessment of Resources) regulations.
- Individuals with capital between the lower and upper limits (£14,250 & £23,250) will contribute. All capital below the lower limit should be disregarded. Where an individual has capital between the lower and upper limits, they may be charged £1 per week for every £250 in capital between.
- The Local Authority must not charge individuals more than it costs them to provide the service.
- Earnings from current employment must be disregarded.
- After charging, individuals must be left with the minimum income guarantee (MIG), which is equivalent to Income Support plus a 25% buffer.
- The value of the property they occupy must be disregarded.
- Two people with similar needs and receiving similar care should not be charged differently.
- Local Authorities may take most benefits into account however the following must be fully disregarded:
  - (i) Direct payments;
  - (ii) Payments made to veterans under the Armed Forces Compensation Scheme
  - (iii) The mobility component of Disability Living Allowance
  - (iv) The mobility component of Personal Independence Payments
- Where Disability-related benefits are taken into account, the Local Authority should make an assessment and allow the person to keep enough to pay for

disability related expenditure to meet any needs not met by the Local Authority.

- The following services should be provided free of charge:
  - (i) Reablement
  - (ii) Community equipment (up to £1,000)
  - (iii) Support provided to people with Creutzfeldt-Jacob disease
  - (iv) Aftercare services under Section 117
  - (v) Any service, or part of service, the NHS has a duty to provide

### **Locally Defined Parameters**

1.3 As stated above, a number of the elements of the Charging Policy are dictated by national legislation (the Care Act 2014). There are, however, a number of locally defined parameters in the current Care and Support Charging Policy which can be changed at the discretion of the local authority, they are:

- In addition to the Minimum Income Guarantee, the Council took a decision to allow people to retain an additional 25% of a service users' chargeable income after the financial assessment has been undertaken. The status of this decision is unclear, and it is not set out in the current policy but is referred to in the consultation documentation. It is, however, what is happening in practice and therefore has been established as a policy in principle.
- Services to carers are non-chargeable.
- Contributions under £5 a week are not collected.
- The Local Authority will charge a flat fee of £300 when arranging care for self-funders.
- Where 100% of disability related benefits are considered a flat rate disregard will be applied as set out below:
  - (i) Disability Living Allowance (DLA) - £5 disregarded
  - (ii) Attendance Allowance (AA) lower rate and DLA middle rate & Personal Independence Payment (PIP) Lower rate - £15 disregarded
  - (iii) DLA & AA higher rates & Personal Independence Payment (PIP) Enhanced rate - £25 disregarded
- An additional £10 a week is allowed for those aged 85 and over.

### **Disability Related Expenditure**

1.4 One of the most complex areas is the allowances that can be made for the costs incurred by someone as a direct result of their disability. This may be, for example, specialist diets, or daily supplies for personal care. Statutory guidance requires that where disability-related benefits are taken into account, the local authority should

make an assessment and allow the person to keep enough benefit to pay for necessary disability-related expenditure to meet any needs which are not being met by the local authority.

- 1.5 As this is a complex process, which relies on judgments about what is deemed reasonable, and frequently involves on-going discussion with the Financial Assessment Team, it is proposed that a Disability Related Expenditure Policy and a Guidance Note is developed.

### **Transitional Protection**

- 1.6 It should be noted that changing the Adults' Care and Support social care data base from the SWIFT to Liquid Logic brought some changes in the way each system undertakes financial assessments. The changes were in relation to the point in the financial assessment process elements of disability related benefits and disability related expenditure are disregarded.
- 1.7 These differences meant that service users client contribution would be higher when assessed in Liquid Logic. To overcome the difference when moving to Liquid Logic any existing clients had a Transitional Payment included on their assessment to ensure their contribution wouldn't increase when transferred. Any new clients from the 1 April 2018 are assessed under the Liquid Logic method.
- 1.8 In order to ensure that the local authority wasn't running a two-tier financial assessment process, which would be against Care Act Guidance, all Transitional payments were removed from the beginning of the 2019-20 financial year. If the individuals affected by the removal of the Transitional Payments are still in receipt of services at the point of implementation, they will also be impacted by the proposals detailed in this report.
- 1.9 There has been extensive consultation and communication on the current round of proposed changes detailed in this report. This is important to note, as a number of residents have fed back that the removal of transitional protection was not carried out with sufficient communication. We will continue to ensure that at each future point in the process (after agreement of any changes by Cabinet, and at each stage in the process that follows) we will lay out clearly what will happen next.

## **2. Proposal and Issues**

- 2.1 Following an in-depth review, it is proposed that the charging policy is completely refreshed which includes a number of key changes. These key changes have been broken down into two groups; those that will be implemented in October 2019 and those that will be implemented in April 2020. On both occasions the changes will be made from the first Monday of the month.
- 2.2 The reason for staging the implementation dates for the proposed changes is that some changes will require service users to review their disability related expenditure and request this to be disregarded from the assessment process. Therefore, it is necessary to give more time to this part of the process. On behalf of

the Council, officers have committed to developing a clearer policy and guidance (which would be done jointly with disability representative groups), and therefore an April 2020 implementation date is realistic.

### **Proposed changes from October 2019**

#### **2.3 Collecting contributions under £5**

The current policy disregards all contributions under £5 a week, due to the fact that at the time it was felt that it would cost more than this to collect. However, the implementation of the new social care database (Liquid Logic) means that this is no longer the case and it is proposed to start collecting these, making the policy fairer for all.

#### **2.4 Disregarding an additional 25% of chargeable income**

The current policy states that the Council will follow national guidance in applying the Minimum Income Guarantee, leaving all service users with at least an income equivalent to Income Support plus 25%. However, in practice we have been applying a threshold of the Minimum Income Guarantee plus 25%, which is considerably higher. This is not what is stated in the current policy and it is proposed to keep the wording the same but amend the process to reflect this.

#### **2.5 Changing when charging begins**

The current policy states that service users begin paying a contribution once they have been financially assessed. It is proposed that this is changed to start contributions at the point at which the service user begins receiving their chargeable service. Our new systems allow us to more quickly give an 'indicative' amount that may be charged following the completion of the Financial Assessment to allow the service user to save the money they owe until once a full financial assessment is undertaken.

#### **2.6 Removing the additional £10 a week disregard for those aged 85+**

The current policy offers an additional protection of £10 per week for people aged 85 or over. There is little basis for offering this enhanced protection to just this age group therefore it is proposed that this is removed to ensure a fairer policy.

#### **2.7 The charging of self-funders**

Regulations permit us to charge self-funders for the costs involved in arranging their care and support, should they wish us to do this for them. We set out that we will levy such a charge, but the process and circumstances are unclear, and we will be more definitive on this.

#### **2.8 Changes in terminology**

The current policy is out of date in describing the various disability-related benefits and Universal Credit, and we propose changing it to reflect the current benefit system.

#### **2.9 Service users subject to Section 117**

For service users in receipt of aftercare following a stay in hospital (under Section 117 of the Mental Health Act 1983), we currently do not charge for all of the care

and support provided. This is not in line with the principles of Section 117, and we should be clearer about not charging for the services being provided under the specific care order and charging for other services provided. For example, this may include accommodation support in supported living, even if elements of care and daily support are to be disregarded.

#### **2.10 Clear waiver process**

The current policy has a waiver process which is undefined, and which does not assist service users and carers in understanding when and how we will consider a waiver. Over the years an inconsistency has arisen in the implementation of the policy which is increasingly unfair. We propose to remove the option of applying a waiver but to clearly define the process a service user can follow should they feel that the Care and Support Charging Policy has not been followed when their financial assessment was undertaken.

#### **2.11 Contributions based on planned or actuals**

We currently have a mixture of practice on whether we charge service users based on planned care to be delivered (with adjustment for any actual lower or higher provision), or on the actual care delivered. We should be clearer on the approach that we use.

### **Proposed changes from April 2020**

#### **2.12 Disregarding Elements of Disability Related Benefits**

Barking & Dagenham Council is currently providing a relatively generous level of Disability Related Expenditure Disregards as detailed in point 1.3. It is proposed that these 'standardised' disregards are removed, and individuals who are spending money in relation to their disability can claim for their actual expenditure to be disregarded, with the aid of a much clearer Disability Related Expenditure Policy, to be developed in partnership with local disability charities.

### **Impact of the proposed changes**

2.13 Due to the way financial assessments are undertaken each of the proposed changes have an impact on each other, therefore we are unable to show the breakdown of the financial impact per change. Therefore, any financial impact testing would be the impact should all the proposals be implemented.

2.14 Approximately 1,600 service users currently have an active community financial assessment. The financial impact the proposals would have on these individuals has been modelled and is summarised below. In reading these figures however, there is an absolutely essential caveat: there are the worst-case scenarios, and assume that there are no claims for disregard of expenditure related to people's disability (because we are unable to predict how people will claim). This is clearly not a realistic likely outcome, and people will continue to have the opportunity to claim for us to set aside those reasonable costs which are incurred through having to manage day-to-day life with a disability.

2.15 The summary of impact, before the application of any disregarded income related to managing a disability is as below. Currently the 'fixed' amounts that are disregarded are £5, £15 and £25 per week, dependent on the benefits received, which can provide the reader with a sense of the scale of possible positive impact on these figures should people make equivalent claims.

- 536 people are currently not contributing towards the costs of their care package and would continue not to should the proposals be implemented.
- 62 people are contribution now and would see no change in the amount they pay
- 107 people would be required to start paying towards the cost of their care package. This would range from 15p to £49.83 a week,
- 902 people are currently paying a contribution which will increase should the changes be implemented. On average the increase would be £38.15 a week, an increase of 107.8%.

### **Discussion on proposed benefits and impacts of the new Policy**

2.16 There will be adverse financial impact on some service users, resulting from higher charges. However, the work undertaken to review and improve the policy still confers a number of benefits for different parties in the care and support system.

#### **Service users**

2.17 Although no one likes contributing towards the cost of their care services the proposed refreshed policy makes it clearer that social care is not a free service. The revised policy clearly states that it is the responsibility of the service user, if they have the means to do so, to pay for the care and support they receive.

2.18 There are some points in the current policy which lack clarity, also there are some elements which do not reflect the process used when financial assessments are being undertaken. The proposed changes will also help to resolve some areas of the policy which could lead to unfairness or inconsistency in how it could be applied.

2.19 There are also some elements in the policy which brought inconsistency to how charging operated for different services users, which is difficult to sustain. The new policy is therefore fairer and more consistent.

2.20 In terms of absolute financial impact on individuals, the Council now has a much stronger set of support services in place for residents facing financial hardship, principally through the new Homes & Money Hub in Community Solutions. This support will more proactively be offered to residents who are facing charges for the social care so that their income can be maximised. It is also intended that we will introduce an enhanced support offer into the Financial Assessment process, so that

residents are supported through the process and can understand better what they can claim for.

- 2.21 This is particularly important when it comes to the proposals around reviewing the Council's policy on assessing service users' Disability Related Expenditure (DRE), which will make it fairer for people who have disability related spend which should be disregarded from the financial assessment process. The new DRE protocols will include nationally set rates for elements of disability related spend which will remove the aspect of personal judgement as to what is classified as reasonable spend.
- 2.22 Finally, as is highlighted by the recent judgment of the Local Government & Social Care Ombudsman, there are some issues in the application of finance processes around social care that need to be resolved; this policy will provide a clearer and more robust basis for the operation of the charging process.

### **The Council**

- 2.23 The proposed policy will help to make the Council a better run organisation, it will be a more robust document which will help the financial assessment team and social workers when working with service users and their representatives.
- 2.24 Since the last time the Care & Support Charging Policy was reviewed in 2015, the Council has been forced to cut a further £63m from its running costs. This has forced the local authority to look at all areas of spend and income and embark on a significant programme of changes to try and bring services within the available funding, without merely cutting them completely. However, despite this, Social Care services in Barking and Dagenham remain under considerable pressure and as a result there is a real need to review the amount residents are required to contribute towards the cost of their care and support packages.
- 2.25 The Government have not yet announced a long-term solution to the shortfall in the funding for Adult Social Care which has now reached crisis levels. As a short term measure the Government have allowed Councils to raise Council Tax rates to help ease the pressure of funding these services, which Barking and Dagenham have done, but there is still a significant shortfall. Resources for social care continue to be under severe pressure, despite the allocation of additional Government grants and the council tax social care precept. Costs for the provision of these services, as well as demand for them, continues to rise at a rate that outstrips these additional 'stopgap' funding measures. Therefore, the Council must consider opportunities to increase income for these services, and must therefore review areas where it has been more generous than other authorities.
- 2.26 The impact of this decline in resources, whilst faced with increasing costs, is that the quality of the entire care sector begins to deteriorate. It is critical that the Council is able to keep pace with the costs of the provision of social care, and therefore it is necessary that all sources of potential income are reviewed. In terms of, for example, the additional 25% of income which can currently be retained by service users (above the minimum Income guarantee), this means that a smaller

number of service users retain additional income, whilst the overall market in adult social care services declines for want of the necessary investment.

- 2.27 Following a complaint to a Care Home in Havering about the handling of an individual's charging, the Local Government Ombudsman (LGO) used their discretion to open up the complaint to be about the Council's actions in the case.
- 2.28 Following their investigation, the LGO published a report in the public interest, highlighting the failings in the case. This was considered by the Council's Assembly in May 2019. The key matter is the policy of the Council of paying care homes net of the contribution paid by the service user and any third party. The LGO holds, and has set out clearly, that this is contrary to the Care Act guidance
- 2.29 Although the LGO findings are in relation to the way the Council pays and charges for residential care, which isn't covered by the charging policy, there are a number of common issues which lack clarity and the refreshed policy is an opportunity to address these. Although the changes resulting from the LGO complaint will make the process of paying for residential based services easier for all parties it will result in an increase in cost for the Council as we will be required to collect all client contributions directly instead of allowing the care homes to do this on our behalf.

### **Social care providers**

- 2.30 In addition to the pressures on the Council's budgets the cost of delivering Adult Social Care services is rapidly increasing. The National Living Wage (NLW) was introduced in 2016 and in that time the minimum wage for people aged 25 and over has increased from £7.20 to £8.21 an hour and this is expected to increase to £9 an hour by April 2020. Although we believe that these increases were greatly needed it has placed a significant impact on the cost of delivering these services. In addition to the NLW the introduction of the national auto enrolment Workplace Pension Scheme has also increased costs. In 2017 employers had to pay in 1% of their employees' salary in if they wished to remain in the scheme, this has now risen to 3%.
- 2.31 The contracts the Council have in place for domiciliary care for adults are due to come to an end in January 2020. These contracts do not have a set value as spend is dependent on need, for 2018/19 the forecast spend is estimated to be c£10m, which was already a significant increase on the year before. Due to a number of factors, including those listed in the paragraph above, the cost of these services is expected to increase when the contracts are re-tendered. Currently the average rate the Council pays for home care is in the region of £15.60 an hour. Following the retender, officers are forecasting a potential increase of between 10% and 20% in the total cost of provision of these services.

### **Assurance: Legal Advice, Internal Audit, and Overview & Scrutiny**

- 2.32 External specialist legal counsel was sought, via Legal Services, to ensure that the proposed policy is fully compliant with all relevant guidance and that there were no ambiguities which should be clarified further.

- 2.33 The advice received was that overall the proposed policy was excellent with only minor points which needed further clarification. The proposed policy has been updated to reflect these points.
- 2.34 Bearing in mind the observations of the Ombudsman on one aspect of social care charging, the service is also intending to invite an internal audit judgment in the new year on how the changes have been implemented to ensure that sound controls are in place and there is an opportunity to fix any implementation issues early in the process. The matter has also been added to the forward plan of the Overview & Scrutiny Committee for review.

### 3. Options Appraisal

- 2.35 In addition to the proposals above the following options were considered:

#### **Option 1 – Do nothing – REJECTED**

The first option considered was to keep the existing policy as is, this option was rejected due to a number of reasons.

Upon reviewing the current policy, a number of issues were identified which could cause inconsistencies and unfairness amongst service users. It is also out of date in terms of the terminology used in relation to a number of benefits it references.

As detailed in this report the current policy does not fit with the local authority's vision and priorities, significantly it is not a document which helps the council to be a well-run, efficient organisation.

Keeping the policy as is would also not provide the opportunity for the council to generate any additional income which is needed to ensure that it is in the position to pay for high quality, reliable services for its residents.

#### **Option 2 – Make all possible changes to increase income – REJECTED**

The second option considered was to take all steps available to the council to maximise the income from service users. In addition to the proposals detailed in the report this would include the following changes:

- **Charging carers** - We do not currently charge for carers' support, and we continue to believe strongly that the work that informal carers contribute to the social care system is of immense value to society. Therefore, charging for support provided to carers would fail to acknowledge this contribution, and be counter-productive.
- **Changing the way we charge for respite care** - We currently do not charge specifically for respite support, instead continuing the established charge for the service user through the period of respite. We do not propose to change this due to the administration and complexities for the service user, the carer,

and the Council. This is consistent with the provision of an amount for respite services being within the personal budget on which the financial assessment is based.

- **Reducing protected income levels** – Statutory guidance states that after charges have been applied and household expenses have been taken into consideration service users will retain a weekly income which is the equivalent of at least basic income support or pension credit plus 25%, this is known as the Minimum Income Guarantee (MIG). When calculating service user MIGs every individual is given the equivalent of the above benefits including all disability related premiums whether they qualify for them or not. The option of changing this practice so service users only get the premiums if they qualify for them was considered and rejected as this wouldn't be in line with neighbouring boroughs and would be very labour intensive to implement.

### 3. Consultation

3.1 A Public consultation event has been undertaken regarding these proposals. The consultation consisted of the following:

- The consultation went live on the borough's Online Consultation Portal on Monday 13 May 2019.
- Letters were sent to all community service users with open financial assessments on Monday 3 June 2019. These letters included an estimate of how the individual would be affected by the proposals for October 2019 and those for April 2020.
- Two Public Consultation Events were held on Wednesday 19 June & Monday 24 June 2019
- The consultation ended on Thursday 27 June 2019

3.2 The consultation received the following responses;

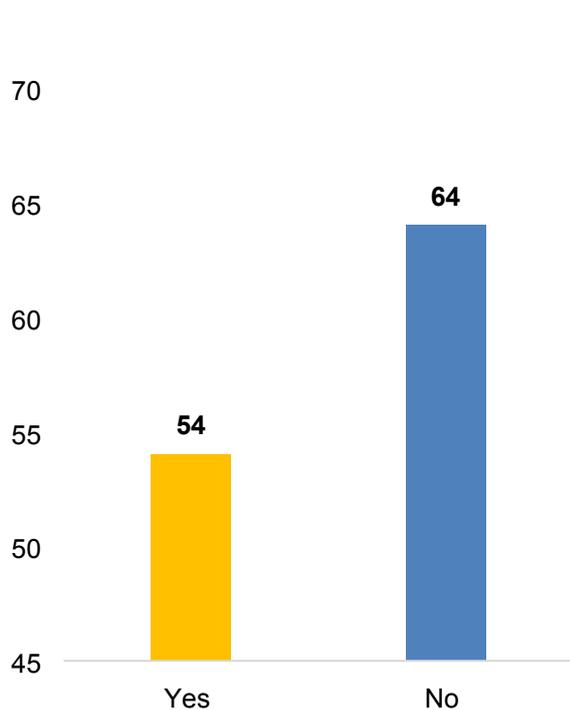
- 120 people have completed the hard copy of the consultation questionnaire;
- 10 people have completed the consultation questionnaire via the online portal;
- Over 55 people have called the council regarding the consultation;
- 29 people have called the ILA regarding the consultation;
- 5 people have been visited by the ILA to support them complete the questionnaire;

- 37 people booked onto the public consultation events.

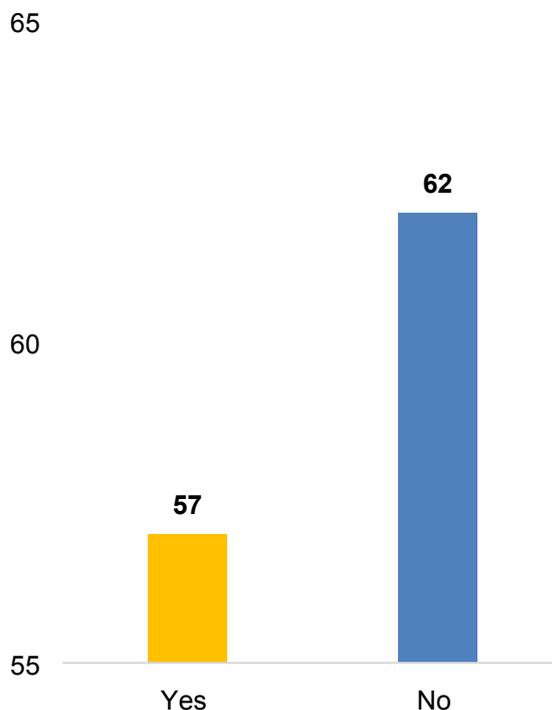
- 3.3 In terms of the feedback received, there is support for a clearer route for disagreeing with the financial assessment, and the improvements in the clarity of the policy itself were welcomed by all attendees at the service user consultation events. There is also support, though very marginal, for being clear that charging should start when the chargeable service begins, and a stronger voice in favour of taking the opportunity to charge self-funders for the Council's work in managing their services for them.
- 3.4 However, it is clear that there is a margin of opinion against a number of the proposals put forward, but that margin is variable, with no proposal receiving universal opposition. In discussions at the service user events there was a strong view in favour of the fairness of some of the proposals (charging people when their assessed charge falls below £5, and removing the £10 additional amount for over-85s, for example). There is a more mixed response to the removal of the additional 25% income allowance, and to the changes to disability related expenditure. However, the conversations at the service user events were helpful in exploring this opposition, with a number of people there recognising that there was potential for a fairer system in this approach.
- 3.5 It is apparent from the conversations that views can differ between those living with lifelong disability and those receiving social care for frailty in older age. The latter, having had the ability over their life to build up more resources and income into older age, are disproportionately affected by the removal of the 25% additional income allowance, which in turn is more likely to be supported (as is the removal of the additional £10 for 85+ year olds) by those with (or involved in the care of) people with lifelong disability.
- 3.6 Further information regarding the age and disabilities of those affected by these proposals can be found in the Equalities Impact Assessment which is included as appendix 3 of this report. It is clear however that there are substantially more people aged over 85 impacted by over £40 a week than any of the other client groups. Likewise, there are significantly fewer people with Learning disabilities in this cohort of service users compared to those with physical support needs. People with learning disabilities are the most prominent group in service users impacted by between £30 and £40 a week which is due to proposals relating to disability related benefits.

## Feedback received – Questionnaires

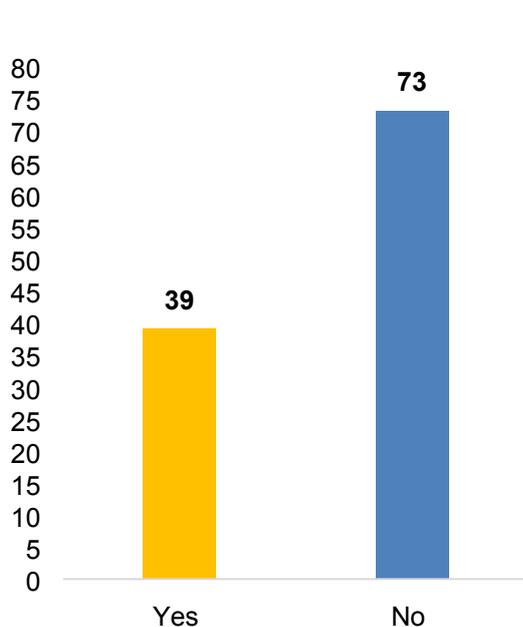
Do you think the Council should start collecting contributions under £5 a week?



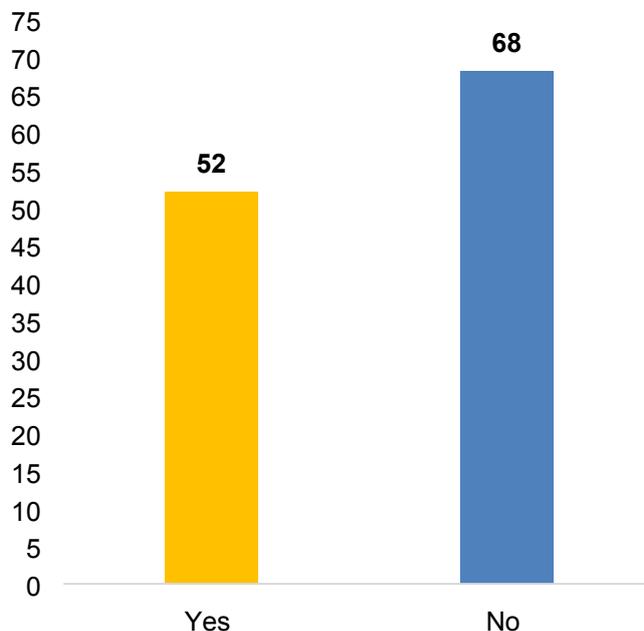
Do you think the Council should start charging service users at the point their chargeable service begins?



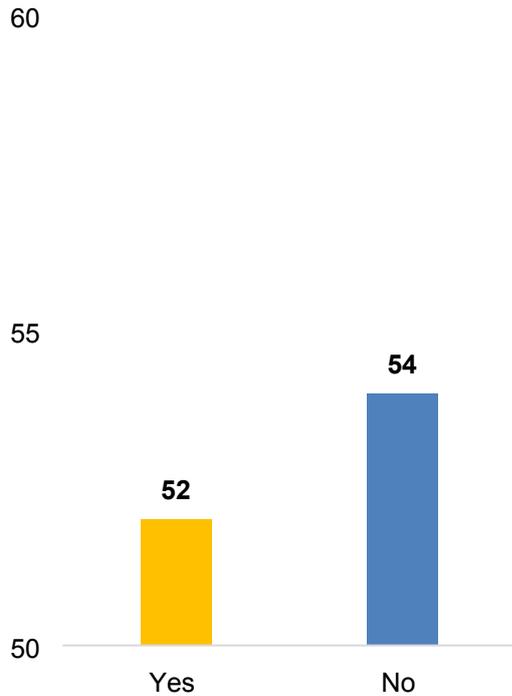
Do you think the Council should stop disregarding 25% of a service users' income in addition to the MIG?



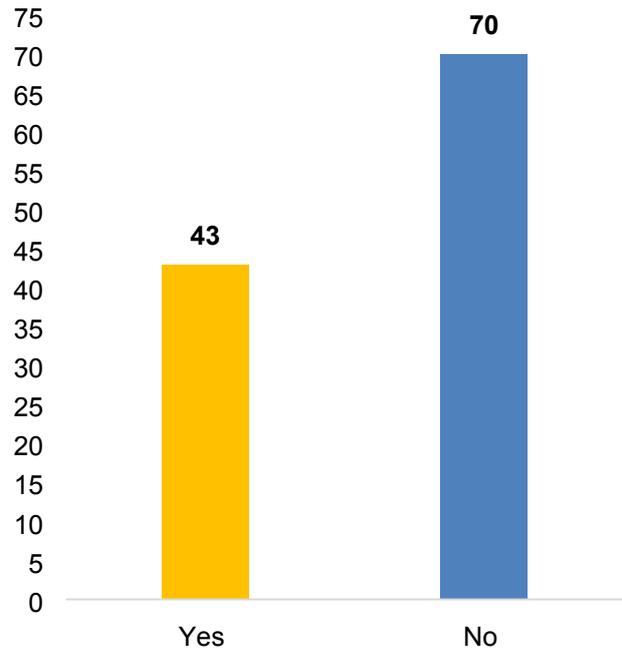
Do you think the Council should stop the additional £10 a week disregard for those aged 85+?



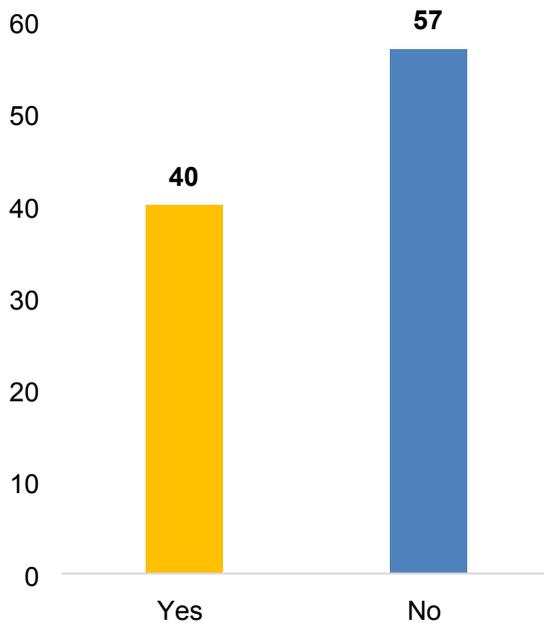
**Do you think the Council should change the way it charges self-funders, so they are charged an annual fee rather than a one-off fee?**



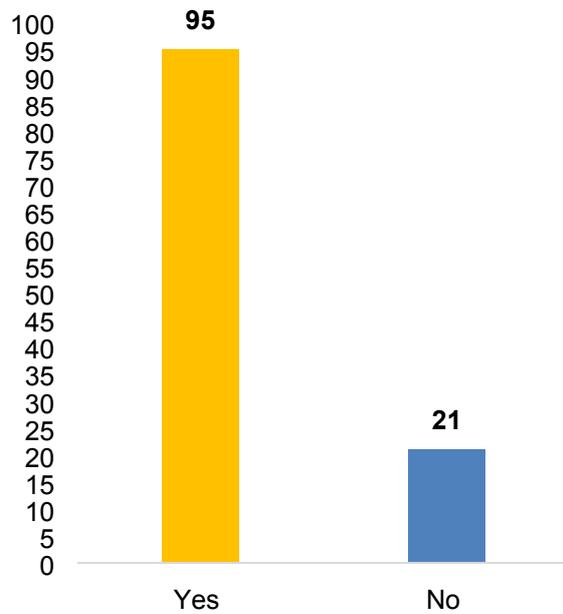
**Do you think the Council should change the way elements of Disability Related Benefits are disregarded?**



**Do you think the Council should change the element relating to those subject to Section 117?**



**Do you think the Council should clarify what you should do if you do not agree with the outcome of the financial assessment?**



## **Feedback received – Consultation Events**

3.7 As previously stated two public consultation events were held, one in Dagenham and the other in Barking with 37 people signing up to attend.

3.8 Feedback received from these events was:

- All who attended agreed that the subject was very complex and difficult to comprehend.
- People with disabilities generally agreed with the proposals as long as the process to claim for DRE to be disregarded was simple and easy to undertake.
- People came to the consultation events to discuss specific issues (not necessarily linked to the Charging Policy) and the meeting format helped to solve these. These conversations lead to a number of proposal, such as quarterly engagement events with service users and carers with senior members of staff from the Council.

3.9 It was overwhelmingly clear from the discussions with service users that the Council will need to invest in the financial assessment process (including the introduction of a visiting service), in order to ensure that service users are better supported to engage with the financial assessment process and, in particular, are supported to claim any DRE they are legally entitled to.

## **4. Financial Implications**

Abdul Kayoum, Principal Accountant - Corporate Finance

4.1 From the very beginning of the post war Welfare State, individuals with sufficient means to do so have been expected to contribute towards the cost of social care and this is implicitly assumed in the way Social Care is funded by the Government.

4.2 As has been consistently reported to Cabinet, the Social Care budget for Adults is under severe financial pressure. This resulted in an overspend of £4m (across the Adults and Disabilities service blocks) for the last financial year (2018/19) and there is a high risk of recurring overspends in 2019/20. This is one of the most serious risks to the long-term financial sustainability of the Council.

4.3 It is therefore vitally important that the Council explore all options to mitigate these financial pressures. This report sets out some proposed amendments to the Charging Policy that are expected to increase the level of contributions received from individuals. This will reduce the pressure on the Council.

4.4 The total impact of these changes cannot be reliably estimated at this stage. However, a reasonable estimate might be around £0.5m or more. This will be used to reduce the level of overspending within current budgets rather than taken as a

further saving. The increased income should reduce the risk of more drastic actions needing to be taken in order to remain within budget.

## 5. Legal Implications

Lindsey Marks Deputy Head of Legal Community

- 5.1 External senior specialist counsel's advice was sought, via Barking and Dagenham's Legal Services, to ensure that the proposed policy is fully compliant with all relevant guidance and that there were no ambiguities which should be clarified further.
- 5.2 Senior specialist counsel advised that overall the proposed policy was excellent with only minor points which needed further clarification. The proposed policy has been updated to reflect those points.

## 6. Other Implications

### 6.1 Risk Management

A number of the proposals for the refreshed Care and Support Charging Policy will impact the amount service users are required to contribute towards the costs of their care and support package. To help minimise this financial impact the Council will:

**Provide a benefits check** – When undertaking assessments, the Financial Assessment team review the benefits service users are in receipt of to ensure that they are receiving all the income that they are entitled to. If it is found that they are not collecting benefits that they could be service users will be advised of this and signposted to resources which can support them to do so.

**Develop the DRE processes** – Developing robust procedures for reviewing, and where appropriate, disregarding a service users disability related spend from the financial assessment process will help them to manage their financial situation and ensure that their contribution is affordable. The refreshed policy includes a section of the DRE process and makes it clear to service users that this is something they can request if it is applicable to their situation.

**Provide support via Community Solutions** – For the people who are most greatly affected by the changes they will be referred to the Homes and Money Hub which is located in Community Solutions who will support them to manage their financial situation.

**Signpost to voluntary sector support** – Where appropriate service users will be signposted to local voluntary sector organisations who can provide financial management and budgetary support. The contact details of the Barking and Dagenham Citizens Advice service, Step Change and the Money Advise service are all included in the revised policy.

## 6.2 **Staffing Issues**

Making any changes to the Adults' Care and Support Charging Policy will result in extra pressure being placed on the workforce.

Implementation will result in service users having questions about the changes, requesting to be re-financially assessed and complaining about their revised contributions. It is anticipated that the areas which will see the largest increases in contact will be the Financial Assessment Team, Social Workers and the Complaints Department. Where required additional short-term resources will be put in place.

The proposed changes in this report will result in a greater level of income being collected by the General Income Team which is located within Elevate. Once the financial impact is clear the impact on this team can be fully assessed. This will have to be considered in-line with the wider impact on them of changing the payment for residential care services from net of client contributions to gross. This change is in response to the LGO complaint and is planned to come into effect in April 2020.

As previously stated there would be a requirement to invest in the financial assessment process (including the introduction of a visiting service) to ensure that service users are supported to claim any DRE they are legally entitled to.

## 6.3 **Corporate Policy and Equality Impact**

A full Equalities Impact Assessment has been completed and is attached to this report.

## 6.4 **Safeguarding Adults and Children**

Making changes to the Care and Support Charging Policy, which could result in an individual's contribution increasing, could potentially lead to service users deciding to stop receiving their care package if they do not want to pay the increased amounts. This will be monitored and where it is felt that the individual is placing themselves at risk a safeguarding concern will be raised and looked into.

Failure to invest further in adult social care services will result in a steady decline in their quality (and, by extension, safety), as workforce becomes more unstable and providers find it difficult to continue sustain their businesses. It is important, therefore, that the Council looks at opportunities for increasing income where they are available.

## 6.5 **Health Issues**

It is recognised that increasing client contributions can place a significant amount of stress on this already vulnerable cohort of people. To try to mitigate these stresses the local authority will, fully consult on the proposed changes, provide a full benefits check, signpost to organisations who can offer financial support and, for those most greatly affected, provide support via the homes and money hub.

**Public Background Papers Used in the Preparation of the Report:**

- *Care Act Guidance*

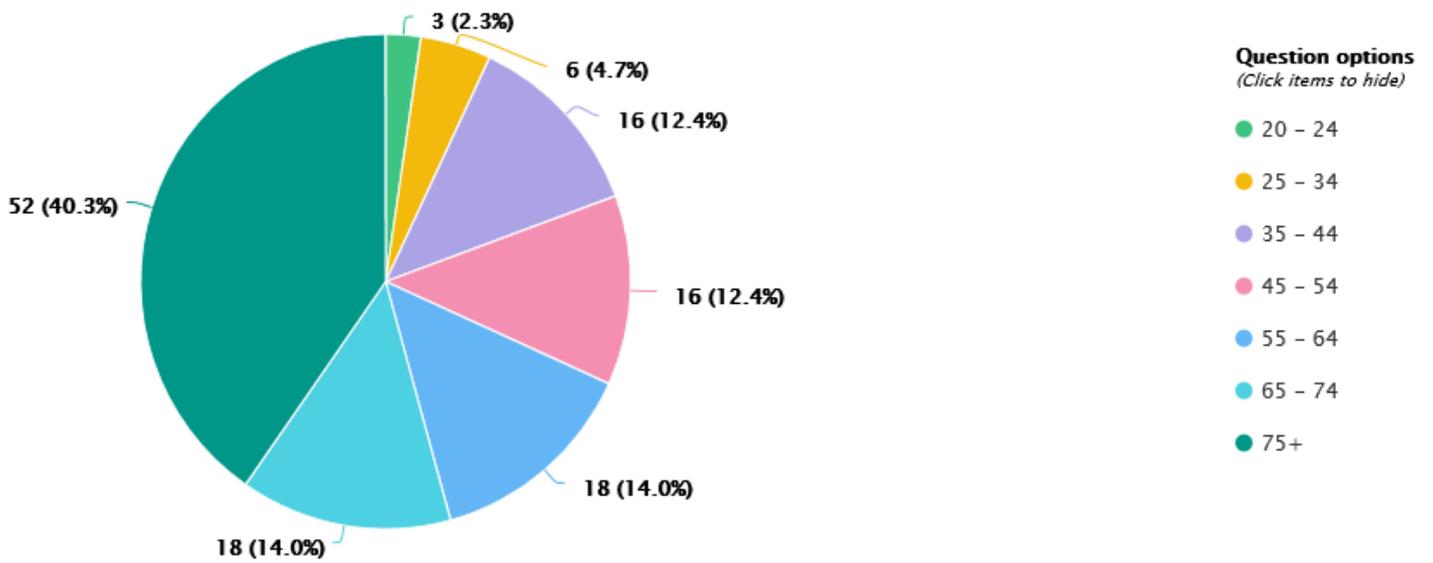
**List of appendices:**

- Appendix 1: Additional survey information
- Appendix 2: Proposed charging policy
- Appendix 3: Equalities Impact Assessment

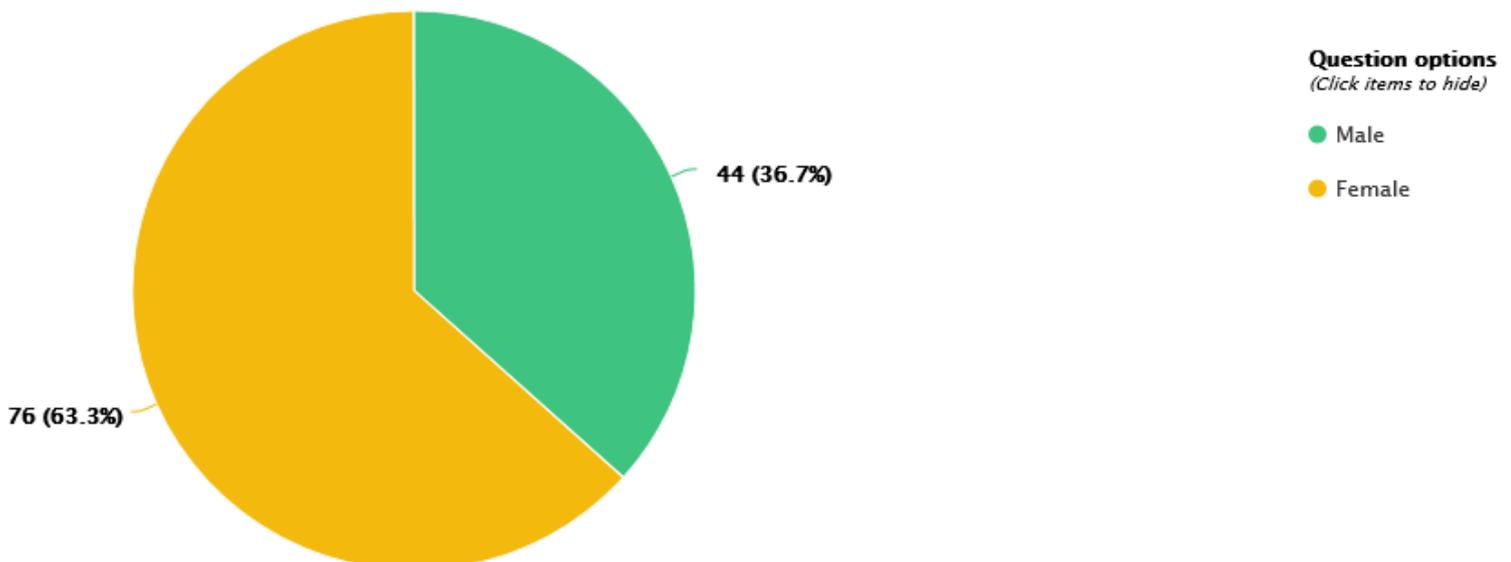
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Additional Survey Information

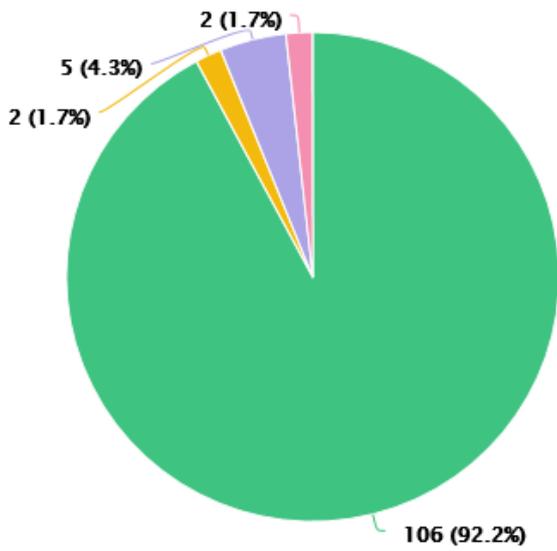
Age of individuals completing a questionnaire



Gender of individuals completing a questionnaire



### Sexual Orientation of individuals completing a questionnaire

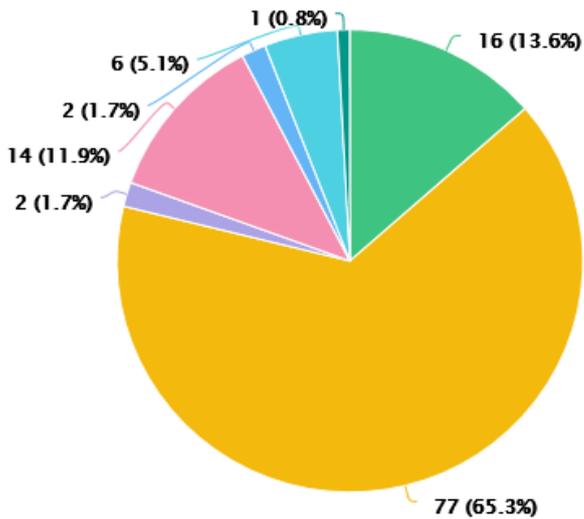


#### Question options

*(Click items to hide)*

- Heterosexual (straight)
- Gay man
- Prefer not to say
- Other

### Religion of individuals completing a questionnaire



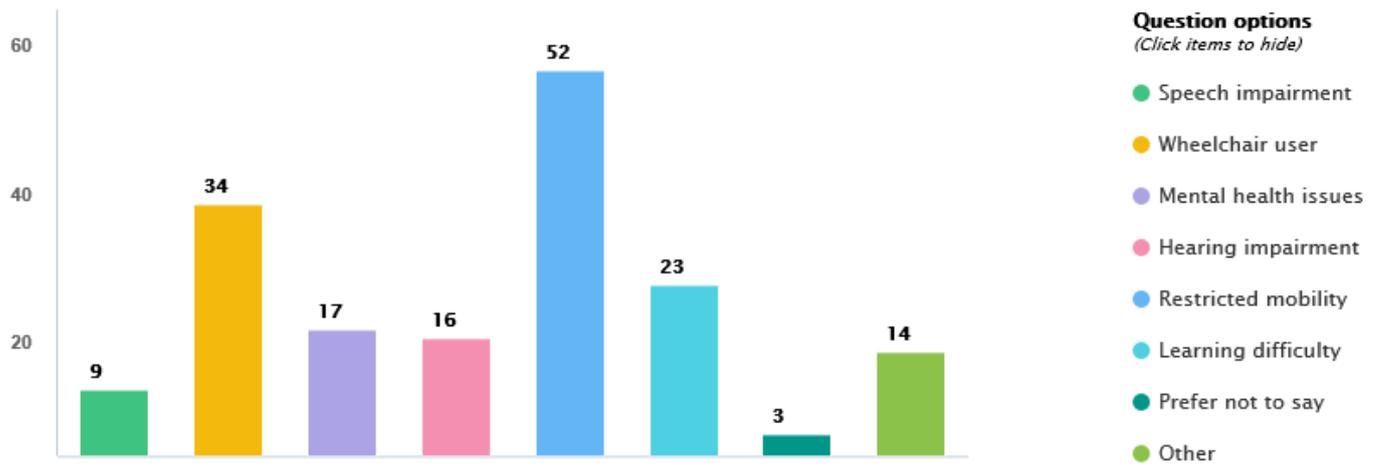
#### Question options

*(Click items to hide)*

- No religion
- Christian (including Church of England, Catholic, Protestant and all Christian denominations)
- Hindu
- Muslim
- Sikh
- Prefer not to say
- Other



## Type of impairment of those who do consider themselves disabled



# Care and Support Charging Policy

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# Paying for your care and support in the community

Social care is not provided as a free service. It is your responsibility, if you have the means to do so, to pay for the care and support you receive. The amount you pay is known as your contribution.

Some individuals will pay for the entirety of their care if they have the means to do so. These individuals are called self-funders.

When paying for social care services you are required to pay your contribution first and then the Council will pay the remaining costs.

In order to establish how much contribution you can afford to pay, the Council will undertake a full assessment of your financial circumstances. This document sets out the processes the Council will follow when undertaking this assessment.

The way in which all Councils undertake financial assessments to calculate contributions for community-based services is governed by a piece of legislation known as The Care Act (2014).

The Care Act includes guidance for Councils covering a large number of subjects, including the charging of

service users and the way in which they are financially assessed.

The processes detailed in this document are in place to ensure that the London Borough of Barking and Dagenham are fairly financially assessing all service users and are following the principles set out in the Act which include:

- Your contribution will be determined by looking at the cost of your service, your capital, expenditure and the income you receive;
- An individual financial assessment will be undertaken to ensure that your contribution is what you can reasonably afford to pay;
- Your contribution will be transparent and fair;
- Your contribution will not be more than the amount your service has cost the Council;
- After you have paid your contribution, you will retain a weekly income which is the equivalent of at least basic income support or pension credit plus 25% - this is known as your Minimum Income Guarantee.

## What are community-based services?

This section of the policy only applies to you if you are receiving community-based services, the charging for residential and nursing care is not included in this document.

Community-based services include personal budgets & direct payments which can be used to purchase a wide range of services such as:

- Support from a Personal Assistant
- Homecare services
- Day services
- Supported living placements
- Council provided transport
- Short term residential care.
- Non-residential social care and support services provided to individuals in approved premises for offenders or prison.

## Do I have to pay a contribution towards all services?

National policy states that the following services are must be exempt from this policy and the recipients are not required to contribute to their cost:

- Services provided to people subject to Section 117 of the Mental Health Act 1983. Please note, only services which are specified in the care order are exempt from charging.
- Up to the first six weeks of reablement or Intermediate Care.
- Community equipment and minor adaptations.
- Any services which fall under NHS continuing healthcare.
- Any other services which the local authority has a duty to provide through other legislation.
- Information & advice including benefit maximisation support and advocacy provided via the Council.
- Needs and eligibility assessments and financial assessments for care and support.
- People who have been diagnosed with any form of Creutzfeldt Jacob Disease are not required to contribute.

In addition to the above the Council have taken the decision that services directly provided to carers to support them with their caring responsibilities will not be charged for. Also, if as part of your assessment for eligible care needs, you have been assessed as benefiting from Assistive Technology we will not charge for this component.

## The Financial Assessment Process

This section provides an overview of the process the Council will take when carrying out your financial assessment.

If you refuse to be financially assessed or do not provide the required information when requested it will be counted as a non-disclosure assessment and you will be responsible for the full cost of your care and support service, with no contribution from the Council.

It will also be classed as a non-disclosure assessment if you fail to keep pre-arranged meetings which were arranged for the purpose of obtaining the necessary information for a financial assessment or review, or if you fail to provide proof of income, expenditure or assets within 28 days of the first request from the Council.

All non-disclosure assessments will result in you being liable for the full cost of your care and support.

The Council will begin considering your financial circumstances at the time of your care and support needs assessment. A full financial assessment will be undertaken at the earliest opportunity.

A financial assessment form will be given to you by the person who undertakes your care and support needs assessment and they will also advise that you may be required to pay a contribution towards the costs of the care and support.

As part of the financial assessment process, you will be offered a full benefits check, advice and practical support to apply for benefits you may be entitled to claim.

The Council has no power to financially assess couples according to their joint resources. Therefore, each person receiving a support service will receive their own financial assessment.

The Council will seek to complete your financial assessment unless you:

- Are exempt, as described in this policy, in which case there will be no contribution required.
- Are in receipt of a flat rate service only as detailed on page 12 of this policy; a flat rate contribution applies.
- Choose not to be financially assessed. In this instance you will be required to pay the full costs of your care and support service.
- Are suitable for a light touch assessment and there is no need for the Council to obtain additional financial information from you or your representative.

Your financial assessment is based on your income, against which deductions will be made for allowable expenditure.

The following diagram very simply shows the various stages of the financial assessment process. The stages are outlined in more detail below:

**Step 1**  
Calculating your income



**Step 2**  
Assessing your capital and assets



**Step 3**  
Reviewing your household expenditure



**Step 4**  
Ensuring that you retain at least the Minimum Income Guarantee

## Step 1 – Calculating your income

The first step of the financial assessment process is to gather information on the regular income that you receive which can be taken into consideration when calculating your contribution.

The Care Act clearly states which income Councils must not count when undertaking the financial assessment process. This income must be disregarded from the process. The below diagram shows examples of income which is included and income which is disregarded from the process.

### ***Examples of income which is included in your Financial Assessment:***

- State & private pensions
- Income Support
- Attendance Allowance
- Personal Independence Payment (PIP) Daily Living Component
- Disability Living Allowance (DLA) Care Component
- Universal Credit
- Guarantee Credit (Pension Credit)

**Please note** – This is not an exhaustive list.

### ***Examples of income which is disregarded from your Financial Assessment:***

- The mobility component of Disability Living Allowance and Personal Independence Payment
- Regular voluntary or charitable income
- Child Tax Credit
- War widows' supplementary pension
- A partner's disability related benefits
- Christmas bonus, winter fuel and cold weather payments
- Social Fund Payments
- Maintenance payments specifically relating to a child
- Child benefit
- Any earnings from current employment
- £10 a week of War disablement pension, war widows' pension will be disregarded

**Please note** – This is not an exhaustive list.

The Council are entitled to include Armed Forces Independence Payments in the financial assessment process however, in line with our armed forces covenant we have decided to exclude them.

## **Notional Income**

In some circumstances you may be treated as having an income that you do not actually have. These circumstances can include:

- If there is income you could claim but choose not to. For example, if you are eligible to claim Pension Credit but you decide not to, you could be assessed as though you were receiving it;
- If you have applied for an income but not yet received it;
- If you have reached retirement age but do not draw down on the maximum annuity income available from your pension plan.

If there is income which you should be receiving but are not the Council will provide you with the support to claim this. The contact details for the teams who can support you are included in the useful contacts section of this document.

## Step 2 – Assessing your capital and assets

The way the Council calculates your capital and assets in the financial assessment process is defined by the Care Act Guidance.

The property that you live in is not taken into consideration when you are receiving community-based services. If you are the owner of other properties these may be taken into consideration.

Capital and assets which are taken into consideration in your financial assessment includes, but is not limited to:

- Any savings account, including building society, bank deposit, Post Office savings bank, national savings etc. investments, stocks, shares, unit trust, TESSAs, PEPs, ISAs, premium bonds etc;
- Any property or land that you own that is not your main house;
- Any capital held on your behalf by another party, Court of Protection, spouse/partner;
- Any element of compensation payment awarded specifically for the costs of providing on-going aftercare.

The Care Act states that if you have savings of more than or equal to a set amount then you are responsible for the full cost of your care package and are known as a 'self-funder'.

This set amount is known as the 'upper threshold limit' and it is currently set at £23,250.

In addition to the upper threshold limit the Care Act also states that there is a 'lower threshold limit'. Any capital you

have under this is disregarded from the financial assessment process.

The lower threshold limit is currently set at £14,250.

**Please note** – the threshold limits are set nationally and therefore could change.

The Care Act states that any capital or assets you have between the upper and lower threshold limits should be used to calculate what is known as a tariff income. This means that for every £250 (or part there of) you have between the two amounts you will have £1 a week added onto your contribution amount.

For example, if you have £1,500 in savings above the lower threshold limit you will have £6 added to your weekly contribution.

### Deprivation of assets

The Council will only take your capital and assets into consideration when completing your financial assessment unless there is evidence that you have intentionally deprived yourself of capital or assets in order to reduce your contribution by giving away more than a 'reasonable' amount to a third party. This includes family members and friends.

Where the Council can demonstrate that you have deprived yourself of capital or assets to reduce your contribution, you may still be assessed as still having the asset. This may affect the amount you will be required to contribute towards the cost of your services.

## Equity Release Schemes

The most common form of Equity Release Scheme is a Home Reversion Scheme (HRS), where a home owner will transfer the ownership of all or part of their home to a commercial or “not for profit” organisation. Depending on the terms of the HRS, the funds released may be translated into an annuity, or a combination of these. Other forms of equity release will be considered on an individual basis and income from the equity release may be considered in the financial assessment.

### Step 3 – Reviewing your household expenditure

The Council may disregard some of the money you spend on household related costs from your financial assessment. Depending on your individual circumstances the following maybe disregarded:

- The amount you pay towards your rent after any eligible Housing Benefit has been awarded.
- The amount you pay towards your Mortgage after any eligible assistance has been awarded.
- The amount you pay towards your Council Tax after any eligible Council Tax Support has been awarded.
- Building insurance.
- The amount you pay towards your essential service charges after any eligible assistance has been awarded.

### Step 4 – Ensuring that you retain at least the Minimum Income Guarantee

The Care Act states that after paying for your social care services and housing costs you must be left with a weekly amount not less than the Minimum Income Guarantee (MIG). The MIG is set nationally by the Government, and was originally based on the equivalent of basic income support or Pension Credit Guarantee plus an additional 25% buffer. The Council has discretion to set an amount for the Minimum Income Guarantee, which we will do from time to time, ensuring always that it is equal at least to the nationally-set minimum.

To ensure that you are left with this amount as a minimum your MIG is removed from your remaining income once all other steps of the financial assessment process have been completed.

When an individual claims either income support or Pension Credit there are disability related premiums which can be included if they are eligible. When the Council calculates your MIG it includes all disability related premiums.

**Once these four steps have been taken the Council will have calculated your contribution. You will be required to pay with your assessed contribution or the full cost of your service if it is lower than your assessed contribution.**

## Disability related expenditure

The Care Act makes it a legal requirement that, if you are in receipt of disability related benefit, the Council must allow you to keep enough of this money to pay for necessary disability related expenditure.

To ensure that the Council is meeting this requirement you can request for any money you spend on items or services due to your disability to be reviewed as part of your financial assessment.

If you request that the Council review any disability related expenditure you must:

- Be in receipt of a Disability Related Benefit.
- Submit costs that are based actual spend. Projections will be made based on this information and reasonable pro-rata calculations used.
- Provide evidence of these costs which is dated and proves that the expenditures belong to you.
- Submit costs that are reasonable, if a lower cost alternative item or service is available you may have the lesser amount disregarded rather than your actual spend.
- Keep your receipts, your disability related expenditure will be reviewed annually and you will may be asked to re-submit up to date receipts.

The burden of proof is yours to accurately provide details of any expenditure. Without this proof the Council may refuse to take your

Disability Related Expenditure into consideration.

Examples of Disability related expenditure are:

- Community alarm systems.
- Privately arranged care services required, including respite care.
- Specialist items needed to meet your disability needs, for example:
  - Day or night care (not being arranged by the Council)
  - Specialist washing powders or laundry
  - Special dietary needs due to illness or disability
  - Special clothing or footwear
  - Additional costs of bedding, for example, because of incontinence
  - Heating costs, or metered costs of water, above the average levels
  - Basic garden maintenance, cleaning, or domestic help, if required due to your disability
  - The cost of disability-related equipment
  - Internet access for example for blind and partially sighted people
  - other transport costs necessitated by your disability

## Standard charges and flat fees

There are some services which the Council charge service users a flat fee for. A full list of these services and the amount you will be charged can be found in the Council's Fees and Charges Report.

This report is reviewed on a yearly basis and is published online.

### Administration Fee for Self-Funders

The Care Act states that if you have savings of more than or equal to a set amount then you are responsible for the full cost of your care package and are known as a 'self-funder'.

This set amount is known as the 'upper threshold limit' and it is currently set at £23,250.

**Please note** – the threshold limits are set nationally and therefore could change.

The Care Act states that as a self-funder you can request that the Council helps you to arrange your home care and support package.

Where Barking and Dagenham Council arranges the care and support for a self-funder a flat rate charge will apply. As with all flat rate charges, the amount you will be charged for this can be found in the Council's Fees and Charges Report.

## Light touch assessments

The Council can undertake light touch assessment, which means that a full financial assessment is not required if you have capital over the upper threshold limit (currently £23,250). If this is the case, you will be classed as a self-funder and will be responsible for the full cost of your care and support.

**Please note** – where a light touch assessment is undertaken the Council will not provide benefits checking or advice as standard, however this can be requested.

## How do I pay my contribution?

Your contribution period will commence at the point you begin to receive your chargeable service. You will not receive your final contribution until your financial assessment has been completed so you should begin saving money from when your service starts as your contribution will be backdated. If you are receiving a free reablement of intermediate care service this will be free for up to six weeks, after this period you may need to contribute depending on the outcome of your financial assessment.

All changes or cessation of services will apply from the Monday following the change or cessation. How you pay your contribution depends on which service you are receiving.

### Direct Payments

If you are receiving your care and support via a direct payment the Council will pay your budget into your direct payment bank account minus your assessed client contribution. It is then your responsibility to pay in your contribution to the same bank account.

If you fail to pay your contributions into your direct payment bank account, your care package will be reviewed and you could be moved from a direct payment to a managed personal budget where the Council pays for the services directly and invoices you for your contribution.

### Other Community Based Services

If you are receiving any other community-based services you will be invoiced for your contribution on a

four-weekly basis, allowing you 28 days to make your payment.

## What happens if I don't pay my contribution?

What happens if you don't pay your contribution depends on what service you are receiving.

### Services provided via a Direct Payment

If you are receiving your care and support via a direct payment the Council will pay your budget into your direct payment bank account minus your assessed client contribution. It is then your responsibility to pay in your contribution to the same bank account.

If you fail to pay in your contribution your care package will be reviewed, and you could be moved from a direct payment to a managed personal budget where the Council pays for the services directly and invoices you for your contribution.

### All other services

If you are in receipt of any services other than one accessed via a direct payment and if you fail to pay your assessed contribution, we will write to you to remind you to make payment as soon as possible.

If continued efforts to contact you or your financial agent fails, or if we are not informed that the charges are under dispute, then we may need to take further recovery action which may incur additional costs, such as court action to obtain a charging order if you have property.

## What should I do if I do not agree with the outcome of my financial assessment?

Assuming this policy has been followed when your assessment was undertaken you are responsible for paying your contribution.

If you can evidence that the Council has not followed the process detailed in this policy when calculating your contribution, then you can contact Financial Assessment Team who will review your assessment.

If you remain dissatisfied with the way in which you have been treated during the financial assessment process, or continue to feel that the policy has not been applied properly, you can make a complaint to the Council via the statutory complaints' procedure. Details of how to make a complaint can be found at the below link:

<https://www.lbbd.gov.uk/complain-about-adult-social-care-services>

If you make a complaint to the Council and are not happy with the decision, you can contact the Local Government Ombudsman ([www.lgo.org.uk](http://www.lgo.org.uk)).

If you make a complaint or are in disagreement with the Council about your contribution you will still be charged while the issue is being resolved.

## When will my contribution be reviewed or re-assessed?

All contributions will be reviewed each financial year to take into account increases to state benefits and service costs. Estimated assessments will be completed based on inflationary uplifts and you will be asked to confirm whether the estimate is incorrect. If no confirmation is received, the estimated charge will be applied

For other components of the financial assessment, such as occupational pension, disability related expenditure, rent and Council Tax, a percentage increase linked to the Retail Price Index (RPI) will be applied (RPI is a measure of which measures the change in the cost of a sample of goods and services).

Changes resulting from the annual increase or the application of the nationally set Minimum Guaranteed Income will apply from the date assigned to these changes.

An explanation and full details of the revised assessment will be sent to you asking you to check the figures and contact the Council if you believe it is not an accurate representation of your circumstances.

## What should I do if my financial circumstances change?

You can request a financial assessment review form at any time which you can use to advise the Council of any changes to your circumstances.

You must advise the Financial Assessment Charging Team as soon as possible, as this may affect your assessed contribution. Changes, which should be notified, include:

- Receipt of a new benefit or changes to benefits.
- Changes to income or allowable expenditure.
- If your capital or savings crosses one of the capital thresholds.
- Changes to living arrangements (e.g. if you or your partner moves to a care home, you move to another residence or the number of people in your household changes).

After you have told the Council about the changes in your financial circumstances or a review is made, a new financial assessment will be completed. If this new assessment results in a change in your contribution, you will be notified of the revised contribution and it will be backdated to when your circumstances changed

## What if you are acting on

If the person you are representing has capacity, they can give consent for you to represent them in managing their financial affairs. The Council will need to see written proof that the consent has been given.

It is the responsibility of you or the person who is receiving the care and support to notify the Council if the representative, or their details change in any way.

If the person who is receiving the services does not have capacity the financial assessment will not be completed with the service user. The Council will work with someone else on the service user's behalf where they lack capacity but only where they have the legal rights to do so.

You can apply to have the right to receive and deal with someone's benefits on their behalf if they are incapable to do so themselves via the Department of Works and Pensions. More information on this can be found at the below link:

<https://www.gov.uk/become-appointee-for-someone-claiming-benefits>

If the person receiving care and support has income and savings aside from any benefits you will need to apply to the Court of Protection to become their legal deputy so that you have the legal right to deal with all their financial affairs. Further information can be found at the below link:

<https://www.gov.uk/courts-tribunals/court-of-protection>

If the person receiving the care and

## behalf of a friend or family member?

support lacks capacity and has no one available to act on their behalf in relation to financial matters the Council will make arrangements on their behalf.

In cases where the service user lacks capacity or is unable to provide the financial information, a provisional contribution will apply until a full financial assessment can be completed and a retrospective contribution applied.

## Advocacy Support

If you are having substantial difficulty being involved in the financial assessment process you may be eligible to receive support from an advocate.

An advocate is an independent person appointed to help express your wishes and make sure your rights are met.

If you think you, your friend or family member requires advocacy support or for more information please speak to the Council's Intake and Access Team.

## Useful Contacts

### Financial Assessment Team

For any queries regarding your financial assessment or contribution you can contact the Financial assessment Team vis:

**020 8227 2390**

[financial.assessments@lbbd.gov.uk](mailto:financial.assessments@lbbd.gov.uk)

### LBBB Intake and Access Team

If you have any questions relating to the care and support you or the person you are representing you should contact the Intake and Access Team via:

**020 8227 2915**

[Intaketeam@lbbd.gov.uk](mailto:Intaketeam@lbbd.gov.uk)

### Barking and Dagenham Citizens Advice Bureau

The Barking and Dagenham Citizens Advice Bureau are an independent service providing free, confidential and impartial advice and information to everybody in Barking and Dagenham.

They provide information/advice on debt and money, welfare rights and benefits, housing and homelessness, employment, discrimination, family, legal and many other areas.

**020 8507 5969**

### Step Change

Step Change are a free debt advice service which help people with debt problems take back control of their finances and their lives

**0800 138 1111**

[www.stepchange.org](http://www.stepchange.org)

### The Money Advice Service

The Money Advice Service provides free and impartial money advice, set up by government.

**0800 138 7777**

<https://www.moneyadviceservice.org.uk/en>

### Barking and Dagenham Homes and Money Hub

The Homes and Money Hub provide support and advice to residents of Barking and Dagenham to help them manage their financial situation.

**020 8724 2115**

[homesandmoneyhub@lbbd.gov.uk](mailto:homesandmoneyhub@lbbd.gov.uk)

## Frequently Asked Questions

### What should I do if I am struggling to pay my assessed contribution?

if you are struggling to pay your contribution there are organisations who can help you manage your finances, details of such organisations are included in the Useful Contacts section of this policy.

### What guidance does the Council have to follow when financially assessing and charging service users?

- The Care Act 2014
- The Care and Support (Charging and Assessment of Resources) Regulations 2014

Details of this legislation can be found

here:

[www.gov.uk](http://www.gov.uk)

[www.legislation.gov.uk](http://www.legislation.gov.uk)

### Is personal debt taken into consideration in the financial assessment process?

No – personal debt such as credit cards and store cards will not be taken into consideration when calculating your client contribution. If you have a debt repayment plan in place this may be taken into consideration.

### Why is it necessary to charge people for the care and support they receive?

It is your responsibility to pay for the care and support you receive. Where you have been assessed to not pay for the total cost of your service, the

Council will pay for the remaining element.

The money the Council receives from central government has reduced dramatically over recent years which has had a significant impact on the budgets for social care services. To help ease this pressure the Council have taken the opportunity to increase Council Tax in the borough specifically to increase the money available for social care support services. This, however, is not enough to meet the needs of the local population who require support.

In light of this it is now more important than ever that people who receive services from Barking and Dagenham Adults' Care and Support understand their responsibilities in relation to paying towards the cost of the care and support they receive.

# Glossary

## **Financial Assessment**

The assessment the Council undertakes of your financial circumstances to calculate the amount you can afford to pay towards the cost of the care and support you receive.

## **Contribution**

The amount you have been assessed to pay towards the cost of your care and support.

## **The Care Act**

The Care Act (2014) came into effect in April 2015 and it is the main piece of legislation which governs the way Council's provide Adult Social Care services.

## **Threshold Limits**

The Care Act states that there are upper and lower threshold limits when assessing an individual's capital.

Anything below the upper threshold limit is not counted in the financial assessment process and if you have capital above the upper threshold limit you are classed as a self-funder and responsible for the full cost of your care and support package.

Any capital between the two limits is used to calculate a tariff income using a nationally defined calculation.

Currently the lower threshold limit is set at £14,250 and the higher is set at £23,250. These limits are set nationally and are subject to change.

## **Care and support needs assessment**

The assessment of your care and support needs which is undertaken by someone for Adults Social Services. The assessment looks at what you can do for yourself and what you need help to achieve and it is used to determine which services you require to meet your individual needs.

## **Direct payment**

A direct payment is a way in which you can have complete control over the care and support you receive to meet your needs. If you are using a direct payment to access your support the Council will pay your assessed personal budget into a specially set up bank account for you to purchase your care and support package directly.

## **Managed Personal budget**

If you receive your services via a managed personal budget the local authority will set up and pay for your care package on your behalf, you will then pay your assessed contribution to the Council.

## **Capital**

In general, it refers to financial resources available to you from sources that are considered more durable than money in the sense that they can generate a return.

The following list gives examples of capital (this is not an exhaustive list):

- Buildings
- Land
- National Savings Certificates and Ulster Savings Certificates
- Premium Bonds
- Stocks and shares
- Capital held by the Court of Protection or a Deputy appointed by that Court
- Any savings held in:
  - Building society accounts.
  - Bank current accounts, deposit accounts or special investment accounts.
  - SAYE schemes
  - Unit Trusts.
  - Co-operatives share accounts.
  - Cash.
- Trust funds

## **Minimum Income Guarantee**

The Minimum Income Guarantee is the minimum amount that the Care Act states you should be left with after paying for your care and support and your household expenditure. The Minimum Income Guarantee is the equivalent of Income Support or pension credit plus a 25% buffer. The Minimum Income Guarantee is set nationally and reviewed annually.

## **Deferred payment**

A deferred payment is an agreement which can be put in place, so you don't have to sell your home immediately to pay for your care.

This could be until you die, after which the costs will be paid from your estate or could be a temporary arrangement to give you time to sell your home when you choose to do so.

To be eligible for a deferred payment you must meet a set criterion which can be found in the Council's Deferred Payments Policy.

## **Light touch assessment**

Where the Council can clearly see that your financial circumstances mean that you are in a position where you are responsible for paying the full cost of your care package, they can treat you as though a financial assessment had been carried out without carrying one out. An example of when this may happen is if you have savings above the upper threshold limit and therefore there is no requirement to assess the income you receive.

## **Deputyship**

Where no Enduring or Lasting Power of Attorney exists you can apply to the Court of Protection to make decisions on behalf of someone who may lack capacity to do so

themselves. A deputy order can relate to making decisions about finances or personal welfare.

### **Appointeeship**

In some circumstances it may be possible for the Council to manage your finances on your behalf, this is known as appointeeship.

The Council can only do this if you are unable to make decisions about your own money. We call this ability to make decisions 'capacity'

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## About the service or policy development

Name of service or policy	Adults' Care and Support Charging Policy
Lead Officer	Michael Fenn - Senior Commissioning Manager, Adults' Care and Support.
Contact Details	<a href="mailto:Michael.Fenn@LBBD.gov.uk">Michael.Fenn@LBBD.gov.uk</a> 0208 227 2619

### Why is this service or policy development/review needed?

The Local Authority's Care and Support Charging Policy has been reviewed to ensure that service users are being fairly assessed to ascertain the amount they should be contributing towards the cost of their care.

The policy follows statutory legislation and guidance as set out in the Care Act 2014. The legislation and guidance require all local authorities who will be applying charges for care and support provided in the community to develop and maintain a charging policy.

Following a review of the policy it has been decided that a number of changes are required to ensure that it is fair and clear for all parties. Due to the complexity of implementing some of the proposed changes some will come into effect in October 2019 while other, which will take longer to roll out, will come into force from the beginning of the 2020/21 financial year. The below table provides an overview of the proposed changes:

### Changes from September 2019

- (1) **Collecting contributions under £5** - The current policy disregards all contributions under £5 a week, due to the fact that at the time it was felt that it would cost more than this to collect. However, the implementation of the new social care database (Liquid Logic) means that this is no longer the case and it is proposed to start collecting these, making the policy fairer for all.
- (2) **Disregarding an additional 25% of chargeable income** - The current policy states that the Council will follow national guidance in applying the Minimum Income Guarantee, leaving all service users with at least an income equivalent to Income Support plus 25%. However, in practice we have been applying a threshold of the Minimum Income Guarantee plus 25%, which is considerably higher. This is not what is stated in the current policy and it is proposed to keep the wording the same but amend the process to reflect this.
- (3) **Disability Related Expenditure Policy** - We recognise that we are not clear with service users on what expenditure we can disregard from their income that relates to their disability. We propose to introduce a clearer policy on this, which will support moves to base disregards more clearly on expenditure that can be demonstrated by the service user
- (4) **Changing when charging begins** – The current policy states that service users begin paying a contribution once they have been financially assessed. It is proposed that this is changed to start contributions at the point at which the service user begins receiving their chargeable service. Our new systems allow us to more quickly give an 'indicative'

Why is this service or policy development/review needed?

amount that may be charged following the completion of the Financial Assessment to allow the service user to save the money they owe until once a full financial assessment is undertaken.

- (5) **Removing the additional £10 a week disregard for those aged 85+** - The current policy offers an additional protection of £10 per week for people aged 85 or over. There is little basis for offering this enhanced protection to just this age group therefore it is proposed that this is removed to ensure a fairer policy.
- (6) **The charging of self-funders** - Regulations permit us to charge self-funders for the costs involved in arranging their care and support, should they wish us to do this for them. We set out that we will levy such a charge, but the process and circumstances are unclear, and we will be more definitive on this.
- (7) **Changes in terminology** - The current policy is out of date in describing the various disability-related benefits and Universal Credit, and we propose changing it to reflect the current benefit system.
- (8) **Service users subject to Section 117** - For service users in receipt of aftercare following a stay in hospital (under Section 117 of the Mental Health Act 1983), we currently do not charge for all of the care and support provided. This is not in line with the principles of Section 117, and we should be clearer about not charging for the services being provided under the specific care order and charging for other services provided. For example, this may include accommodation support in supported living, even if elements of care and daily support are to be disregarded.
- (9) **Clear waiver process** - The current policy has a waiver process which is undefined, and which does not assist service users and carers in understanding when and how we will consider a waiver. We propose to revise this approach which will be detailed in the updated policy.

**Changes from April 2020**

- (1) **Disregarding Elements of Disability Related Benefits** - Barking & Dagenham Council is currently providing the following levels of Disability Related Expenditure Disregards depending on the benefit the individual is in receipt of:
  - Disability Living Allowance (DLA) - **£5 disregarded**
  - Attendance Allowance (AA) lower rate and DLA middle rate & Personal Independence Payment (PIP) Lower rate - **£15 disregarded**
  - DLA & AA higher rates & Personal Independence Payment (PIP) Enhanced rate - **£25 disregarded**

It is proposed that these disregards are removed and individuals who are spending money in relation to their disability can request for this to be disregarded via the new Disability Related Expenditure Policy.

**1. Community impact (this can be used to assess impact on staff although a cumulative impact should be considered).**

What impacts will this service or policy development have on communities?  
 Look at what you know? What does your research tell you?

*Consider:*

- National and local data sets
- Complaints
- Consultation and service monitoring information
- Voluntary and Community Organisations
- The Equality Act places a specific duty on people with ‘protected characteristics’. The table below details these groups and helps you to consider the impact on these groups.

**Demographics**

**All service users**

The borough’s Care and Support Charging Policy is designed to ensure that the people of Barking and Dagenham pay a fair contribution towards the costs of their care and support that they are receiving in the community. It does not apply to individuals who are receiving their care in a residential or nursing setting or those receiving the borough’s short-term community-based service, Crisis Intervention.

According to the Local Authority’s end of year statutory returns there were 2,020 people receiving chargeable services from Adults’ Care and Support throughout the 2017/18 financial year. Of these individuals 927 were aged between 18 and 64 years of age and 1,093 were aged 65 or over. All of these individuals would be financially assessed except for those exempt from charging, for example individuals subject to Section 117 of the Mental Health Act and those living with Creutzfeldt Jacob Disease.

Please note - Not all monitoring data is consistently recorded on the client records, however the information below is consistently recorded and can be reliably reported upon

Below is the primary support reason for the 2,020 individuals who accessed chargeable services throughout the financial year:

Physical Support	1416
Sensory Support	11
Memory and cognition	17
Learning Disability	382
Mental Health	194
	2,020

The end of year returns show that on the last day of the financial year, 59.1% of individuals receiving a chargeable service were female.

The below shows the breakdown of all individuals’ reported ethnicities:

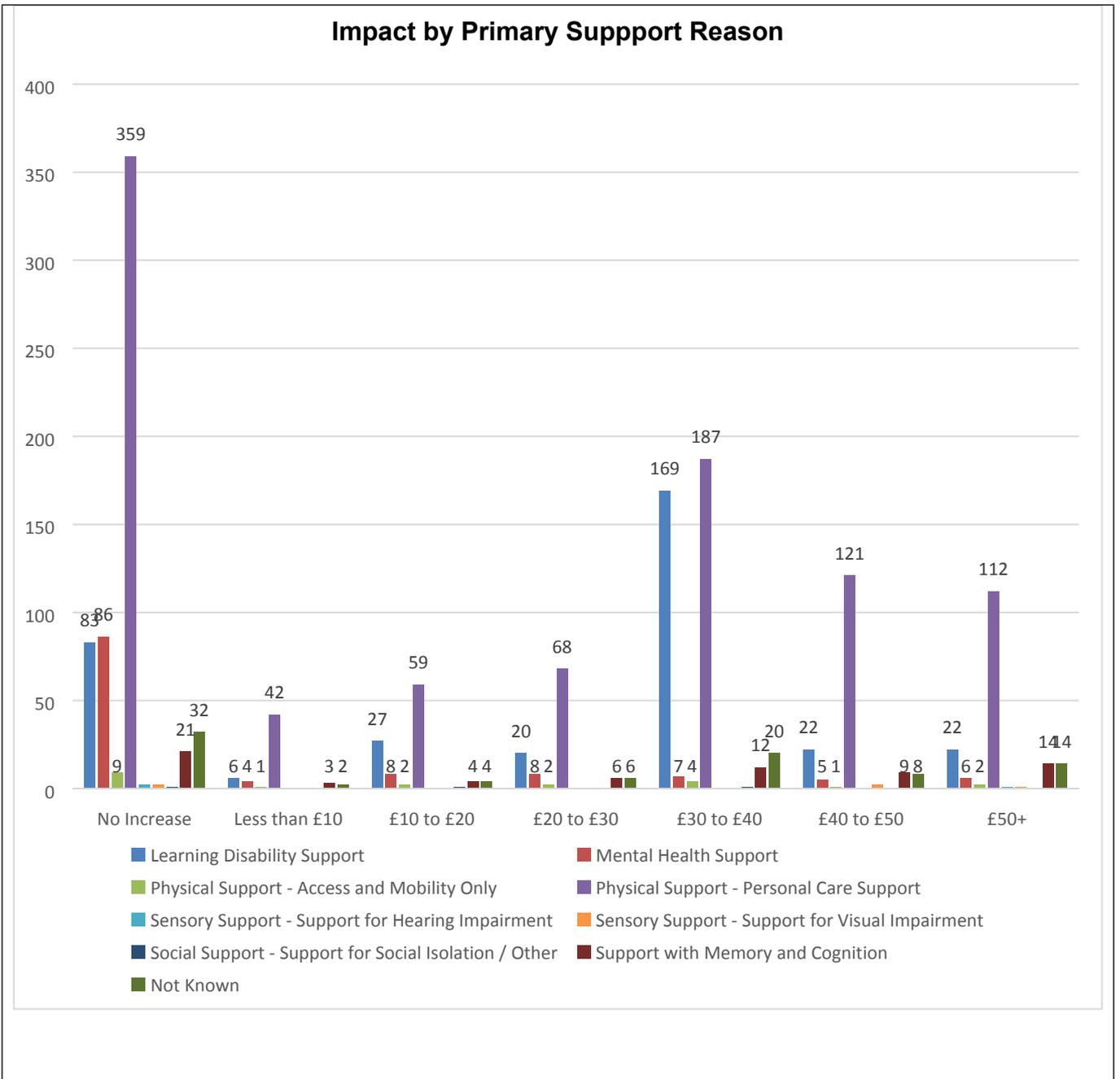
White	72.37%
Mixed/ multiple ethnic groups	0.99%
Asian	9.89%
Black/ African/ Caribbean	14.60%
Other	0.99%
Not known	1.16%

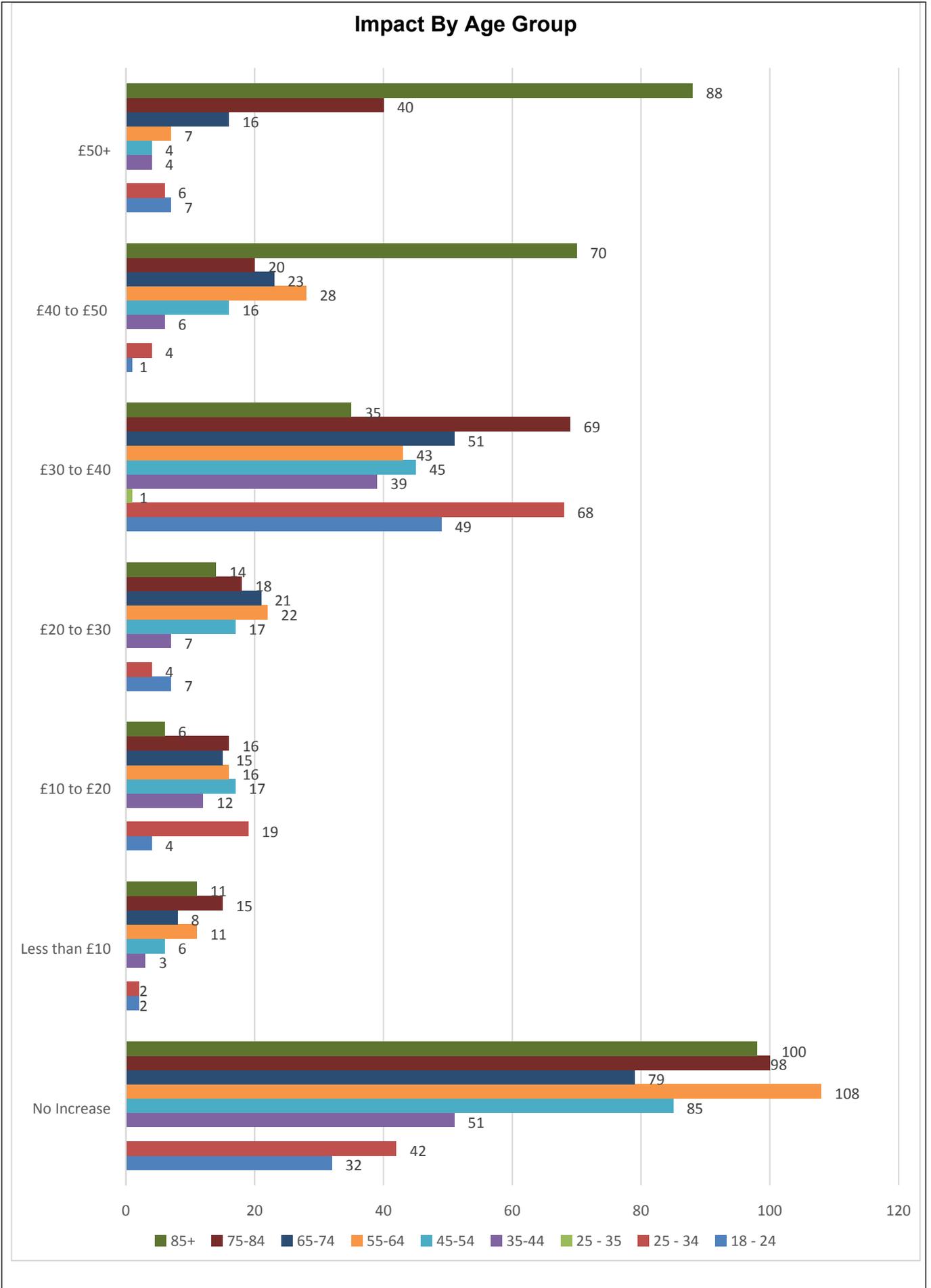
**Service users impacted by the proposals**

Due to the way financial assessments are undertaken each of the proposed changes have an impact on each other, therefore we are unable to show the breakdown of the financial impact per change. Therefore, the financial impact testing undertaken is on the basis that all the proposals are implemented.

When reviewing the financial impact figures there is an absolutely essential caveat: there are the worst-case scenarios, and assume that there are no claims for disregard of expenditure related to people's disability (because we are unable to predict how people will claim). This is clearly not a realistic likely outcome, and people will continue to have the opportunity to claim for us to set aside those reasonable costs which are incurred through having to manage day-to-day life with a disability.

The below graphs show how the proposals will impact service users based on their age and their primary reason for their care support package:





Potential impacts	Positive	Neutral	Negative	What are the positive and negative impacts?	How will benefits be enhanced and negative impacts minimised or eliminated?
<p><b>Local communities in general</b></p>			<p>X</p>	<p>The changes will help the Council to continue to provide care and support to all who require it.</p> <p>The changes to the Charging Policy will increase the contributions of individuals who have been found, following a financial assessment, to be liable to contribute towards the cost of their care. The changes will also result in some individuals who were previously found not liable to contribute now being found to be so.</p> <p>Below are the estimated effects of the proposed changes to the financial assessment process:</p> <p><b>Please Note: these predicted financial implications do not take into consideration that people can apply for any money they spend due to their disability to be considered for disregarding from their financial assessment which would lower their contribution.</b></p> <ul style="list-style-type: none"> <li>• 536 are currently not contributing towards the cost of their care package and would continue to not be required to.</li> <li>• 62 people are paying but would see no change in their contribution amount.</li> </ul>	<p>In order to minimise the impact of the proposed changes to the Care and Support Charging Policy the local authority will be undertaking the following actions when financially assessing service users:</p> <ul style="list-style-type: none"> <li>• Providing individuals with a benefit check to ensure that they are receiving the income they are entitled to at the point of their financial assessment.</li> <li>• Signposting individuals to local organisations who can support them with their money management and budgeting skills.</li> <li>• For those most greatly affected, offer tailored support from the Homes and Money Hub, within Community Solutions.</li> <li>• The Council will also be developing a Disability Related Expenditure Policy to help service</li> </ul>

**COMMUNITY AND EQUALITY IMPACT ASSESSMENT**

			<ul style="list-style-type: none"> <li>• 107 people would be required to start paying towards their care, the amounts range from 15p to £49.83 a week.</li> <li>• 902 people will see the contribution they are currently paying increase, on average this increase will be £38.15 a week</li> </ul>	users claim for money they are spending due to their disability to be disregarded from their financial assessment. Details on this can be found in the disability section below.
<b>Age</b>		X	<p>Currently the local authority offers an additional protection of £10 per week for people aged 85 or over. There is little basis for offering this enhanced protection to just this age group therefore it is proposed that this is removed.</p> <p>Removing the additional £10 a week protection for this client group will result in their contribution increasing however, it will mean that the policy is fairer for all age groups and removed the inequalities that currently exist dependent on age.</p>	
<b>Disability</b>		X	<p>The current policy disregards relatively generous levels of people’s Disability Related benefits as detailed in the introduction of this assessment. It is proposed that these disregards are removed and included in the financial assessment to determine the amount they contribute towards the cost of their care package.</p>	<p>In order to minimise the impact of this change the local authority are also reviewing the Disability Related Expenditure (DRE) Policy.</p> <p>The Care Act (2014) states that:</p> <p><i>Where disability-related benefits are taken into account, the local authority should make an assessment and allow the person to keep enough benefit to pay for necessary disability related expenditure to meet any needs which are not being met by the local authority.</i></p>

**COMMUNITY AND EQUALITY IMPACT ASSESSMENT**

				<p>By reviewing the DRE policy the local authority will make it clearer and simpler for service users to apply for any money they spend due to their disability for consideration to be disregarded from their financial assessment.</p> <p>Removing the standard disregards will mean that service users will have to request for money they are spending due to their disability to be disregarded from the assessment process. This means that the amount they have disregarded will be tailored to their circumstances.</p> <p>To make this easier/ clearer for Service Users the Council has committed to working with local disability groups to design a DRE policy/ forms which is fit for purpose. The Council's financial assessment form will also be reviewed to make claiming for DRE simpler.</p>
<b>Gender reassignment</b>		X		The changes to the Charging Policy should have no disproportionate impact on this group.
<b>Marriage and civil partnership</b>		X		The changes to the Charging Policy should have no disproportionate impact on this group.
<b>Pregnancy and maternity</b>		X		The changes to the Charging Policy should have no disproportionate impact on this group.
<b>Race (including Gypsies, Roma and Travellers)</b>		X		The changes to the Charging Policy should have no disproportionate impact on this group.
<b>Religion or belief</b>		X		The changes to the Charging Policy should have no

<b>COMMUNITY AND EQUALITY IMPACT ASSESSMENT</b>	
-------------------------------------------------	--

			disproportionate impact on this group.	
<b>Sex</b>		X	The changes to the financial assessment process do not directly or indirectly discriminate, harass and is not unequal towards any groups of individuals however as can be seen in the demographics section above there are a greater proportion of females accessing services.	
<b>Sexual orientation</b>		X	The changes to the Charging Policy should have no disproportionate impact on this group.	
<b>Any community issues identified for this location?</b>		X	n/a	n/a

**2. Consultation.**

Provide details of what steps you have taken or plan to take to consult the whole community or specific groups affected by the service or policy development e.g. on-line consultation, focus groups, consultation with representative groups?

A full public consultation event was undertaken to establish the views/ thoughts of service users, their informal carers and the general public.

The consultation process consisted of the following:

- The consultation went live on the borough’s Online Consultation Portal on Monday 13 May 2019.
- Letters were sent to all community service users with open financial assessments on Monday 3 June 2019. These letters included an estimate of how the individual would be affected by the proposals for October 2019 and those for April 2020.
- Two Public Consultation Events were held on Wednesday 19 June & Monday 24 June 2019
- The consultation ended on Thursday 27 June 2019

**Monitoring and Review**

How will you review community and equality impact once the service or policy has been implemented?

*These actions should be developed using the information gathered in **Section 1 and 2** and should be picked up in your departmental/service business plans.*

Action	By when?	By who?
The local Authority will monitor any requests to end care packages due to increased contributions	Monitoring will begin in October 2019	Charging Policy Task and Finish Group and Adults’ Improvement Board
The local Authority will monitor the number of service users who are requesting additional Disability Related Expenditure (DRE) disregards which are used when individuals require further disregards from the financial assessment process to enable them to afford expenses they occur due to their disabilities.	Monitoring will begin in October 2019	Charging Policy Task and Finish Group and Adults’ Improvement Board

## COMMUNITY AND EQUALITY IMPACT ASSESSMENT

How will you review community and equality impact once the service or policy has been implemented?

*These actions should be developed using the information gathered in **Section 1 and 2** and should be picked up in your departmental/service business plans.*

The local Authority will monitor the number of complaints received in relation to the changes made to the financial assessment process.	Monitoring will begin in October 2019	Charging Policy Task and Finish Group and Adults' Improvement Board
The Local Authority will monitor requests for support, due to increased contributions, to the Homes and Money Hub and the Citizens Advice Bureau	Monitoring will begin in October 2019	Charging Policy Task and Finish Group and Adults' Improvement Board
Quarterly meetings will be held with service users and carers which will be attended by senior management from the Local Authority	Monitoring will begin in October 2019	Charging Policy Task and Finish Group and Adults' Improvement Board
The Local Authority will monitor the amounts that are scheduled for collection from client contributions and the actual collection rate	Monitoring will begin in October 2019	Charging Policy Task and Finish Group and Adults' Improvement Board

### 3. Next steps

It is important the information gathered is used to inform any Council reports that are presented to Cabinet or appropriate committees. This will allow Members to be furnished with all the facts in relation to the impact their decisions will have on different equality groups and the community as a whole.

Take some time to précis your findings below. This can then be added to your report template for sign off by the Strategy Team at the consultation stage of the report cycle.

Implications/ Customer Impact

The financial implications of the proposals are detailed in section 1. above.

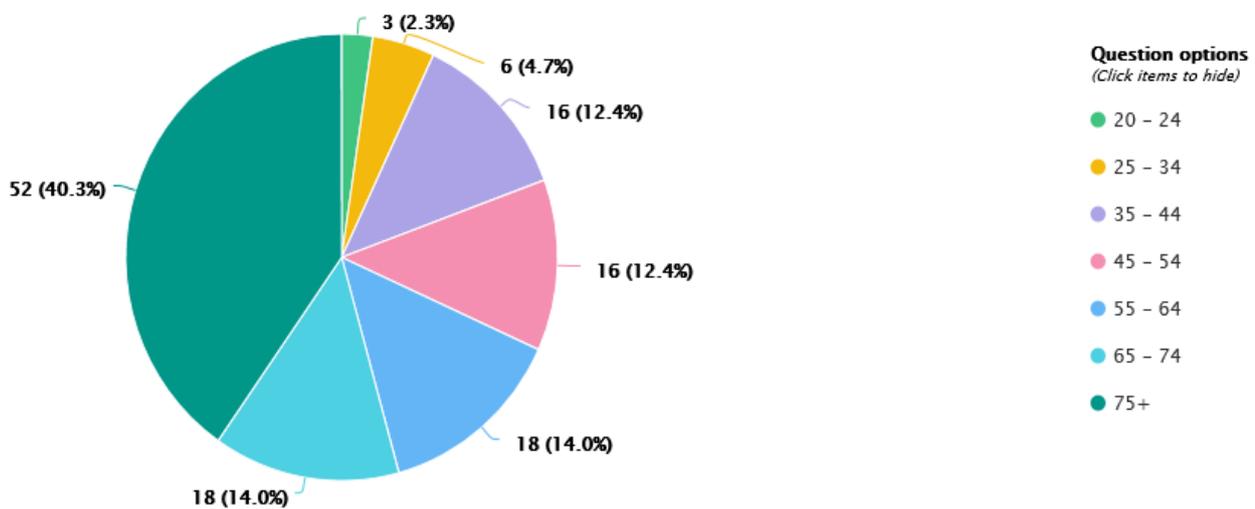
The outcome of the consultation process was:

- 120 people completed the hard copy of the consultation questionnaire
- 10 people completed the consultation questionnaire via the online portal
- Over 55 people have called the council regarding the consultation
- 29 people have called the ILA regarding the consultation
- 5 people have been visited by the ILA to support them complete the questionnaire
- 37 people booked onto the public consultation events

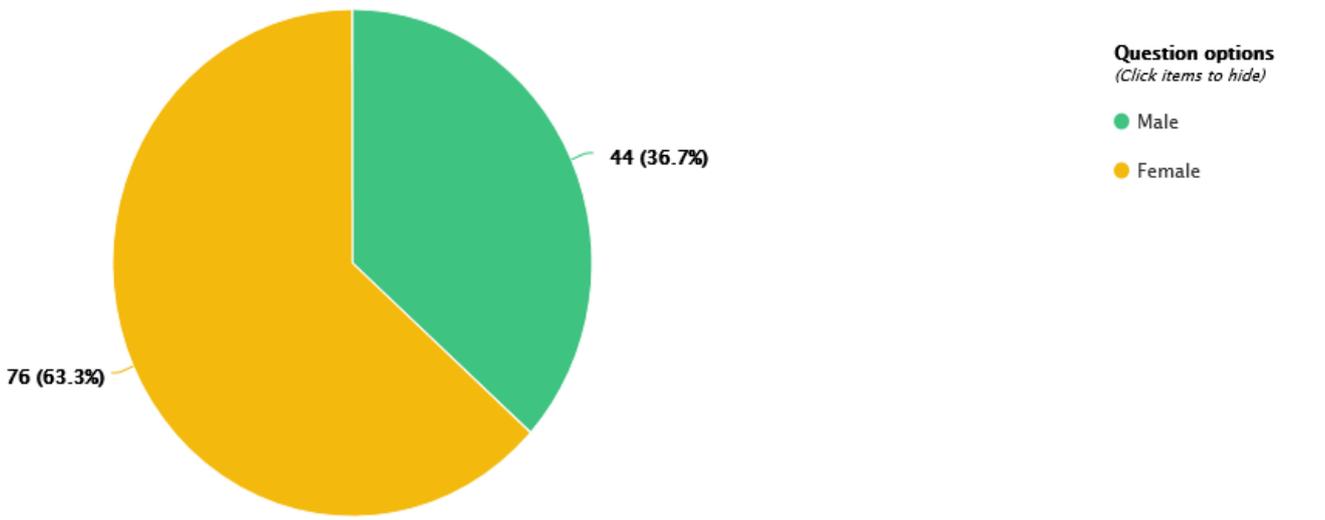
Details of the responses provided via the questionnaires and the public consultation events can be found in the Care and Support Charging Policy Cabinet report dated 16 July 2019.

The following graphs show the age, gender, ethnicity, sexuality, religion and disabilities of the individuals who completed the questionnaire:

**Age**



**Gender**

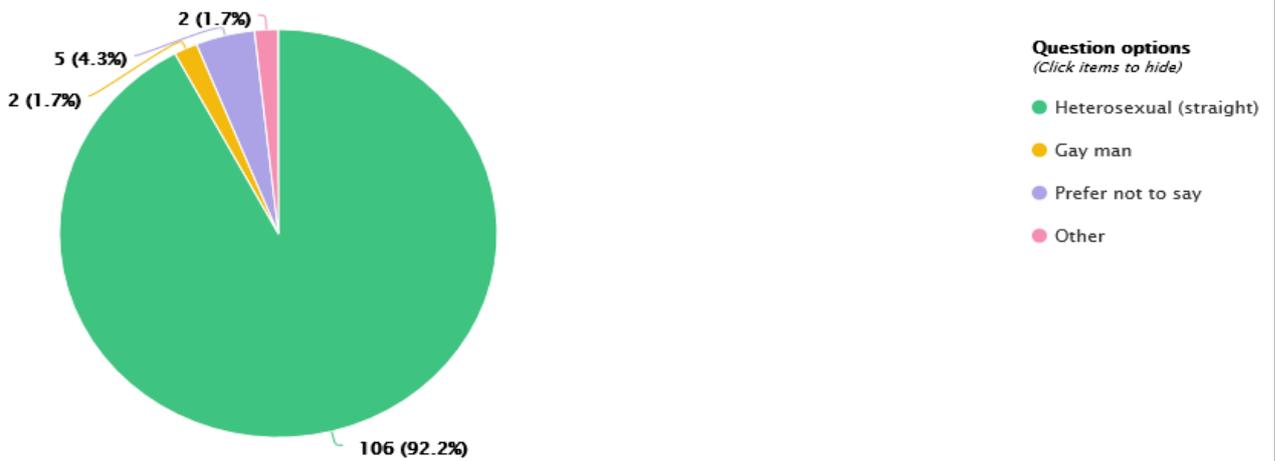


**Question options**  
 (Click items to hide)

- Male
- Female

63.3% of individuals who completed the questionnaire were female, this is broadly inline with the proportion of service users in 2017/18 who were female (59.1%)

**Sexual Orientation**

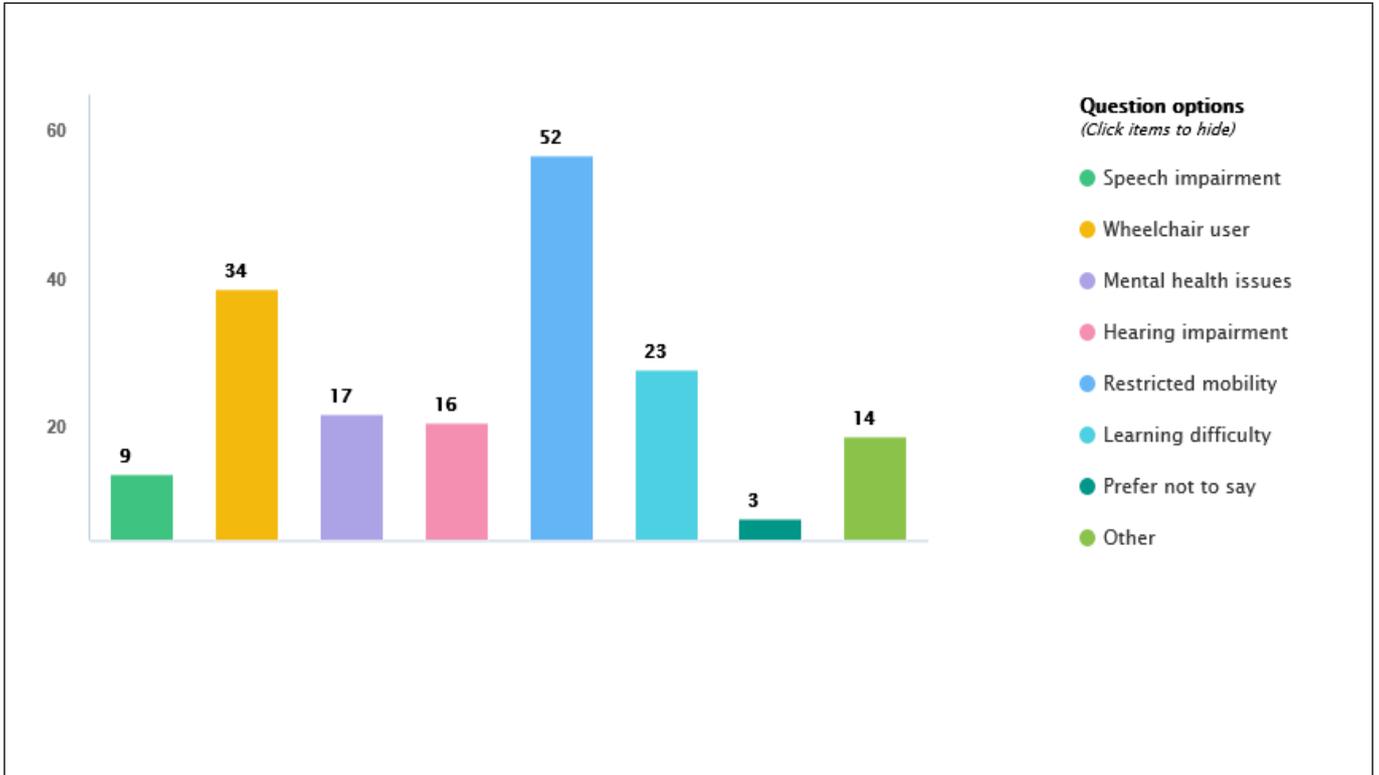


**Question options**  
 (Click items to hide)

- Heterosexual (straight)
- Gay man
- Prefer not to say
- Other

**Religion**





**5. Sign off**

The information contained in this template should be authorised by the relevant project sponsor or Divisional Director who will be responsible for the accuracy of the information now provided and delivery of actions detailed.

Name	Role (e.g. project sponsor, head of service)	Date
Louise Hider-Davies	Head of Adults’ Care and Support	
Mark Tyson	Commissioning Director – Adults’ Care and Support	
Elaine Allegretti	Director of People of Resilience	

## CABINET

16 July 2019

<b>Title:</b> Care Leavers' Local Offer	
<b>Report of the Cabinet Member for Social Care and Health Integration</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> Yes
<b>Report Author:</b> Sarah Myers, Policy and Partnerships Officer	<b>Contact Details:</b> Tel: 020 227 2253 E-mail: <a href="mailto:sarah.myers@lbbd.gov.uk">sarah.myers@lbbd.gov.uk</a>
<b>Accountable Director:</b> Chris Bush, Commissioning Director, Children's Care and Support	
<b>Accountable Strategic Leadership Director:</b> Elaine Allegretti, Director of People and Resilience	
<p><b>Summary</b></p> <p>Children in care and those with care experience are some of the most vulnerable members of society and national evidence indicates that far too often their life chances are significantly poorer than for their peers who are raised within a birth family. As corporate parents, the Council has a moral and legal obligation to prepare care leavers for their transition to adult life and independent living.</p> <p>The Council is required to consult on and publish its Enhanced Local Offer for care leavers, outlining the support and services available to care leavers, including information about statutory entitlements as well as discretionary support to be provided.</p> <p>London Borough of Barking &amp; Dagenham (LBBd) Local Offer was updated in October 2018. However, it is recognised that the aspirations for care leavers could and should be higher. Corporate Parenting is a council-wide responsibility and the local offer should include contributions from across council services, for care leavers to develop the knowledge and skills to live independently and have access to the practical and emotional support they need.</p> <p>This paper reviews the current Local Offer, following benchmarking against other local authorities, and outlines additional proposals for inclusion in the offer – some of which are already being offered and some of which will take further time to implement.</p>	
<b>Recommendations</b>	
The Cabinet is recommended to:	
<ul style="list-style-type: none"> <li>(i) Agree the updated version of the Care Leavers' Local Offer at Appendix 1 of the report;</li> <li>(ii) Agree to recommend to Assembly that it endorses LBBd Care Leavers resident in the Borough to be exempted from Council Tax up to the age of 25, effective from April 2020;</li> </ul>	

- (iii) Agree that officers, in consultation with the Cabinet Member for Social Care and Health Integration, develop a 'saving for independence' scheme for LBBB Care leavers aged 21 to 25 based on a sum equivalent to 50% of the Council Tax exemption; and
- (iv) Agree to delegate authority to the Director of People and Resilience, in consultation with the Cabinet Member for Social Care and Health Integration, to develop and approve a bespoke Local Offer for Unaccompanied Asylum-Seeking Children as outlined in section 7.3 of the report.

**Reason**

To assist in achieving the council priority of “empowering people” by enabling greater independence by supporting the most vulnerable and ensuring that no one in our community is left behind.

**1. Introduction and Background**

- 1.1 Children in care and those with care experience are some of the most vulnerable members of our society and national evidence indicates that far too often their life chances are significantly poorer than for their peers who are raised within a birth family. Like any parent, our responsibility is not just to ensure the safety and wellbeing of the children during their childhood but also extends to preparing them for a happy, healthy and successful life as an adult – and this means providing support beyond the age of 18 when they legally become an adult.
- 1.2 Through the Children and Social Work Act 2017, local authorities are required to publish their Local Offer for care leavers, outlining the services and support available within the local authority area, including information about both statutory entitlements as well as any discretionary support that a local authority chooses to provide.
- 1.3 Support offered should cover preparing for adulthood and independent living, health and wellbeing, relationships, education, training and employment, accommodation and participation in society.
- 1.4 LBBB has recognised the need to improve its approach to working with care leavers. While good outcomes are being achieved, our aspirations for care leavers could and should be higher. We should embrace the notion of being “pushy parents”. The principle of “would this be good enough for my child” should underpin our local offer.

**2. Principles of Corporate Parenting**

- 2.1 Section 1 of the Children and Social Work Act 2017 requires local authorities to have regard to seven corporate parenting principles when discharging their function in relation to looked-after children and care leavers:
  - To act in the best interests, and promote the physical and mental health and well-being, of those children and young people

- To encourage those children and young people to express their views, wishes and feelings
  - To take into account the view, wishes and feeling of those children and young people
  - To help those children and young people gain access to, and make the best use of, services provided by the local authority and its relevant partners
  - To promote high aspirations, and seek to secure the best outcomes, for those children and young people
  - For those children and young people to be safe, and for stability in their home lives, relationships, and education or work.
  - To prepare those children and young people for adulthood and independent living.
- 2.2. These principles will be embedded in the Council's approach to working with children in care and care leavers and are the foundations of the proposed additions to the current local offer.

### **3. Improvement activity within Children's Social Care**

- 3.1. There is an ongoing programme of improvement activity taking place within Children's Social Care, of which the update to the Local Offer for Care Leavers is one part.
- 3.2. The Council's transformation programme is designed from first principles to support individuals, families and communities to grow their own capabilities, to learn to work, to live healthily and connect to one another. We have focused on empowering people and enabling greater independence, whilst continuing to support those who need it. The updates to the Local Offer for Care Leavers aim to foster independence, best preparing them for adult life, whilst continuing to safeguard and support.
- 3.3. During the past 8 months, a series of external tests has been applied to the Children's Social Care system, which has provided a clear picture of the fundamental changes required. This culminated in the Ofsted ILACS inspection in February 2019.
- 3.4. Ofsted praised the strong relationships between staff and care leavers, which meant that most care leavers were in touch with the service. Care leavers reported that they benefitted from the support and training provided by personal advisors and spoke warmly about the children's rights officer.
- 3.5. The recently refreshed Pledge, which care leavers participated in, was also mentioned – though it must be noted that this pledge is not reflected in the current Local Offer.
- 3.6. However, feedback from Ofsted also noted that health provision for care leavers is a significant concern. Health histories for young people are not available, health passports are not provided, and care leavers are not provided with specific targeted support to address mental health or emotional concerns.
- 3.7. Based on self-evaluation, corroborated by the OFSTED feedback, a new Target Operating Model (TOM) has been designed. The previous TOM is no longer fit for

purpose. The entrenched needs of our community, such as neglect, and domestic abuse are increasing – in terms of volume at least – and emerging factors, such as risk of exploitation, pose a serious threat to our most vulnerable children and young people, placing the existing system under strain, at times approaching breaking-point. The new TOM has been designed to meet these challenges, in a needs-led design.

- 3.8. The Corporate Parenting and Permanence Service will include leaving care coaches embedded into each social care team, working with young people to help prepare them to leave care and gain independence based on maturity/readiness, not age. It also means reduced transfer of children between social workers and personal advisors (PAs) at a crucial time.
- 3.9. Our Corporate Parenting function will be strengthened, and the new Local Offer will be underpinned by the new Corporate Parenting principles, reflecting contribution for every part of the Council. For Care Leavers, this means harnessing cross-Council support and opportunities, e.g. work with Community Solutions and corporate services to ensure that no one is left behind – securing appropriate accommodation, education, training and employment opportunities.

#### **4. The Current Local Offer**

- 4.1. LBBD published an updated Local Offer to Care Leavers in October 2018, in order to meet the new legal duty to extend Personal Advisor support up to 25 for all care leavers. The current local offer is outline in the table in Appendix One.
- 4.2. The current offer meets the statutory minimum requirements, but as set out above, through internal review and external inspection, the Council has recognised that we could do more to improve our offer to care leavers.
- 4.3. It has also been acknowledged and corroborated by Ofsted feedback, that there are elements of the current local offer that are not being delivered as we would expect, for example the health provision. The new TOM states that the LAC nurse and health administrator will join the new Corporate Parenting and Permanence service, to help improve the poor health assessments and outcomes.
- 4.4. Along with meeting the new duty to offer Personal Advisor support up to 25, the Council needs to consider how we use the new Corporate Parenting Principles to develop a local offer that reflects the contribution of all parts of the local authority, not just Children’s Services, how we can take account of feedback from care leavers to improve the local offer, and how we can ensure that care leavers develop the knowledge and skills to live independently, and have access to the practical and emotional support they need.
- 4.5. LBBD’s Local Offer is available on the website as a downloadable PDF <https://www.lbbd.gov.uk/leaving-care> and there is also an app called Learn2Live which is free to download and summarises the key points from the document.
- 4.6. However, feedback from care leavers has shown that they find the app “too wordy” and that it looks too much like the LBBD website, with “depressing” text and pictures that lack diversity and do not reflect Barking and Dagenham. They wanted something that was more dynamic and interactive, with less text and divided into

age specific, topic specific information. One suggestion was to use video to promote the local offer.

## 5. **Additional support that we already offer that is not in the Local Offer document**

- 5.1. **Leaving Care awards** are held annually to celebrating achievements and ambitions of our care leavers. October 2018 saw the 5<sup>th</sup> annual award ceremony, with 85 care leavers attending as well as Members and the senior leadership team. Awards covered achievements in formal qualifications, apprenticeships, volunteering, participation in groups and giving back to the community.
- 5.2. The **NEET Panel for Care Leavers** meets every 2-4 weeks and involves professionals across the Council who are involved in supporting young people into education, employment and training. It looks at individual cases and agrees actions that can be taken to support that person into EET.
- 5.3. The current Local Offer states that the Council is committed to giving **priority for apprenticeship to care leavers** but does not specify what this means. Following conversations with the Leaving Care Team and the apprenticeship co-ordinator, this means that all care leavers who are interested in apprenticeships are referred to the job shop and receive one-to-one support in applying and interview skills. If they meet the minimum criteria, care leavers are guaranteed an interview. Care leavers are also paid an additional £50 per week, increasing to £70 per week if they progress into the second year. Details about the extra support offered to care leavers when applying for apprenticeships should be added to the offer.
- 5.4. The new **Promise Pledge** was signed by councillors in May 2018 is not reflected in the current local offer. This should be updated.
- 5.5. There are a number of ways in which care leavers are involved in **influencing practice and service development**, including leading on training for professionals via “Total Respect”, involvement in interviews for recruitment of staff in Leaving Care Service, and quality assuring 16+ and 18+ support provisions as part of a large-scale procurement exercise. There is also a “take-over” of the Corporate Parenting Board, where the Skittlz group sets the agenda and run the meeting.
- 5.6. **Annual information and networking meetings for care leavers who are interested in university or apprenticeships** are organised by the Virtual School. An apprenticeship meeting was held on 24<sup>th</sup> April 2019 at the BLC. These events provide the opportunity for care leavers to find out about options for university and apprenticeships, build new connections and get support in application. It also aims to encourage businesses to get involved through mentoring, apprenticeships, work experience etc.
- 5.7. **The Homes and Money Hub** was created in 2018, bringing together a partnership team to work together to enable residents to improve their financial independence. Support available includes personal budgeting, tenancy readiness and sustainment support, conflict resolution. The Homes and Money Hub is willing to work with care leavers on a 1:1 basis to develop specific support package, or to provide group sessions that they can tailor to meet the needs of care leavers. Any service can refer a young person to the Homes and Money Hub, and young people can self-

refer. Details of the support available and how to access it to be included in the local offer. Gil Wilson (Homes and Money Hub) is also a member of the NEET panel, providing this support to young people who are referred to the panel.

## **6. Lower cost initiatives that could be included in an updated Local Offer to be further considered by the Cabinet Member for Social Care and Health Integration**

- 6.1. A number of local authorities ring fence a small number of apprenticeship roles for their care leavers, e.g. Warwickshire have 5 apprenticeships ringfenced for care leavers, Wandsworth ring fence 2 participation apprenticeships with Children's Social Care. We employ 50-70 apprentices each year, which is due to increase and currently no care leavers are employed at the Council in an apprenticeship role, despite them being guaranteed an interview if they meet minimum criteria. Through discussions with managers in Children's Services and the apprenticeship co-ordinator, it was noted that many care leavers are not job ready, and so may require a **"traineeship" or paid work placement** opportunities to help prepare them for employment in the future. The placements would offer care leavers the chance to gain appropriate skills and experience. As an example, the Confident Futures Programme in Wigan, offers six-week placements for 16-25 year olds who are not in education or training, with priority given to care leavers.  
<https://www.wigan.gov.uk/LINC2/News/2017/December/UntitledYoung-people-celebrate-their-confident-futures.aspx> Opportunities for traineeships or work placements should be made available within the Council and in local businesses and partner organisations, and once complete, participants would have the opportunity to progress onto an apprenticeship.
- 6.2. **Partners in the Borough (e.g. Barking and Dagenham Delivery Partnership) to offer guaranteed apprentice interviews for care leavers.** The Council offers a guaranteed interview for care leavers who met the minimum criteria in the job description for apprenticeships. We should engage with key partners in the borough to encourage them to offer the same – starting with the members of the Barking and Dagenham Delivery Partnership. Hackney is very successful at establishing apprenticeship places – with 29 care leavers starting apprenticeships between 2013-16. Apprenticeships are with a range of local and international firms, as a result of effective negotiations. (Source: Ofsted Report July 2016)
- 6.3. **Leisure passes for friends** – it has been agreed in principle that care leavers should be offered an extra pass for leisure centres in order that they can bring a friend with them.
- 6.4. **Free membership to the Youth Zone for care leavers** – the Youth Zone opened in May, the first of its kind in London, aiming to engage and inspire young people to try positive new activities and raise aspirations – giving them somewhere to go, something to do and someone to talk to. The Youth Zone is open to young people up to age 19, or 25 if they have disabilities or learning difficulties). Annual membership costs £5 plus 50p per visit. Wolverhampton Council offer their care leavers free annual membership to the Youth Zone. There are currently 130 care leavers aged 19 and under, giving them free annual membership would therefore cost £650.

- 6.5. **An approval mark** to be designed to show that policies, procedures and documents have been signed off by Skittlz, and given their “stamp of approval” showing that it meets their needs and is accessible in the language used. A mechanism to be established to ensure that Skittlz are engaged and consulted with on all policy changes.
- 6.6. **Community Solutions are reviewing housing pathways** for five vulnerable groups – including 16 to 25-year-old care leavers. There are three core outputs from this review; mapping current housing pathways and agreeing ways to improve, proactive use of data, including looking at current supply, demand and cost and projections to inform future supply planning, and making recommendations for operational processes and protocols to ensure that the desired changes are realised, e.g. the creation of multi-professional panels. The outputs of this review should feed into the updated local offer.
- 6.7. **Text message service.** The most efficient way to communicate information to a large number of people is to be able to send a text message. Text messages are shown to have better response rates than letters or emails, particularly amongst young people. The Leaving Care team would like to have a system which allows them to quickly inform all care leavers of news and events. A similar system exists within My Place to contact tenants and leaseholders. The Customer Experience and Digital Team are looking into procuring a corporate solution using GovNotify, and a meeting has been arranged to discuss incorporating the needs of the Leaving Care team into this procurement exercise.

## **7. Higher cost initiatives with a longer implementation time frame to be considered**

- 7.1. **Council Tax Exemption** – The Children’s Society report “Wolf at the Door” published in March 2015 recommended that Councils make care leavers eligible for council tax exemption, to ensure that the transition from care to adult life is as smooth as possible, and to mitigate the chances of care leavers getting into debt as they begin to manage their own finances.

Care Leavers are amongst the most vulnerable groups in the community, particularly for council tax debt. Evidence from the Children’s Society shows how challenging care leavers can find managing their own budgets for the first time when moving into independent accommodation and how scary they found falling behind on their council tax.

As their corporate parent, we should help care leavers to take their first steps towards living independently, just as any parent would with their children. By making care leavers exempt from council tax, we are giving these young people a few valuable years to learn how to manage their finances and have a better change of avoiding problem debt in the future – thus making the transition from being in care to becoming independent much smoother.

Most other London Boroughs have already taken the decision to exempt care leavers from paying council tax.

In October 2018, the Mayor of London published his actions for care leavers, including the agreement to waive the GLA precept where a borough has put in

place discretionary scheme for care leavers to be exempt from council tax. This means that the cost to the Council of exempting care leavers would be less the GLA precept. The Mayor of London also pledged to undertake a survey of London boroughs to gather information on discretionary schemes and encourage boroughs who do not currently have a care leavers exemption scheme to set one up, showing that there is further backing for exemption schemes.

Options for exemptions that were considered:

- Council tax exemption for all care leavers up to 25
- A stepped discount - council tax exemption for all care leavers up to 21 (100%), then liable to pay 50% council tax until 25.
- A sliding scale for council tax exemption – with 18 years old being fully exempt and the amount of council tax they pay increasing each year until they are 25 and are paying full council tax.

7.1.2 Initial discussions with Elevate about a sliding scale highlighted some issues, mainly that date of birth is not recorded as it is not required for council tax purposes, and there is no field for this on the council tax system. This discount would need to be manually applied outside the system. Elevate also do not recommend creating eight levels of discount (one for each year) as this would not only increase administration, and likelihood of error but they also say this would be confusing to the young people.

Elevate confirmed that a two tier discount scheme would be more manageable although they add that as their system does not record date of birth and that they would not know when a young person moved into accommodation liable for Council Tax (e.g. moving out of a staying put arrangement), this would need to be monitored by the Leaving Care team, who should notify Elevate of the discount to be applied, and monitor any changes of circumstance. Elevate’s recommendation however would be a single exemption system.

An accurate estimate of the costs of a council tax exemption for all care leavers up to either 21 or 25, requires the addresses of each care leaver to check council tax bands. If a care leaver is a full-time student, they would already be exempt from paying Council Tax. Other variants include whether the care leaver lives alone in which case they will have a 25% single person discount, and what type of accommodation they live in, such as residential care or supported lodgings, as not all are liable for paying council tax. Where a care leaver lives with non-care leavers, the exemption would be applied in a similar fashion to where a student lives with a non-student, e.g. their name would not appear on the bill, and the non-care leavers would be liable to pay the council tax, and would receive a 25% single person discount if they were the only other person in the property.

Estimated costs of exemption/discounts:

<b>Care Leavers aged 18 – 21</b>	<b>Care Leavers aged 21 – 25-year</b>	<b>TOTAL</b>	<b>TOTAL minus GLA precept</b>
100% exemption	100% exemption	£196,921.71	£156,359.12
100% exemption	50% discount	£127,247.04	£101,035.98*
100% exemption	No exemption/discount	£57,572.37	£45,713.42

\*50% Council Tax discount matched by 50% GLA precept discount.

These figures are based on the current list of care leavers living within the borough and their current addresses as provided by the Leaving Care Team and Elevate, and based on the assumption that all care leavers are solely liable for the cost, do not claim the single person discount and that 100% of those entitled make a claim. After adjustments for single person discount and other discounts available to them via the Council Tax Support Scheme, this estimate is likely to reduce. However, the estimate might also increase if the overall number of care leavers eligible for exemption increases, or if circumstances change, e.g. moving to a larger property.

Based on the lists supplied, 70% of care leavers aged 18-21 live within the borough with the remaining 30% living in boroughs that already offer exemption to care leavers. 110 (55%) of the 199 care leavers aged 21 to 25 live within the borough. Of the remaining 89, 41 live in areas that exempt care leavers from council tax, 5 are in prison and the whereabouts are unknown for 19. We would look to enter reciprocal arrangements with neighbouring boroughs that already exempt care leavers. Many of the London boroughs that offer council tax exemption to care leavers already offer this exemption to care leavers from other boroughs, for example Haringey, Lewisham and Croydon. We do not know how many care leavers from other boroughs currently live in Barking and Dagenham; however, it is likely that these reciprocal arrangements will result in some level of cost. There are currently 24 care leavers (according to lists supplied) who live in areas that do not exempt care leavers, mostly in Kent and Essex.

7.1.3 We propose that all LBBDD care leavers up to 21 living in the borough are fully exempt from paying council tax, in line with best practice, in keeping with the Council's vision of leaving no one behind and embedding the principle of "would this be good enough for my child". For care leavers aged 21 to 25, who live in the borough, we propose that they would also be exempt from Council tax. However, in order to support their transition to independence, we propose that they pay an amount equivalent to 50% of the council tax they are liable for (taking into account any exemptions or support they would have received via the Council Tax Support Scheme), and that this money is paid to the Leaving Care team who will put this money into a savings pot or similar to be held until the care leaver reaches 25, at which point it will be released to them. The Leaving Care team already administer similar systems for the collection of rent and housing benefit. It should be noted that this is unlikely to be enforceable through the courts in the same way as Council Tax. The cost to the council in terms of loss of council tax collection would be the same as if all care leavers were fully exempt (£156,359.12).

The exemption from paying council tax is likely to result in a decrease in emergency payments made to care leavers in crisis and the numbers of care leavers finding themselves in council tax arrears, as well as further reducing the dependency on services that is experienced by some of our young people. Where care leavers are in council tax arrears, it is proposed that once an exemption is effective, as of April 2020, any remaining arrears would be cleared.

7.2. **Peer Mentor Scheme** to empower care leavers to support each other. Young care leavers (16-18) are paired with a peer mentor aged 18-25, who has experience of being in care. The mentors' role will be to establish a positive relationship with the young person, provide informal support, encourage links with other supports/agencies and opportunities, raise self-esteem and increase confidence. It would also create opportunities for the mentors to develop communication and

leadership skills, gain experience for CV, increase confidence whilst sharing their experience with a younger care leaver. A peer mentor scheme would require some training for mentors, system for pairing mentors/mentees, ongoing support for mentors, and monitoring of impact.

[https://media.nesta.org.uk/documents/peer\\_mentoring\\_programme.pdf](https://media.nesta.org.uk/documents/peer_mentoring_programme.pdf)

- 7.3. **Development of a bespoke offer for UASC.** Unaccompanied Asylum-Seeking Children are a big proportion of our young people who are NEET. They are a particularly vulnerable group within the care leavers cohort. We should appoint a Corporate Parenting UASC Champion to advocate for the particular needs of UASC, who will sit on the Corporate Parenting Board and advocate for them. We will look to making local arrangements with Coventry University London and Barking and Dagenham College to enable UASC young people to access education and training. Other options for specific support include Creative English classes offered through the Leaving Care team.
- 7.4. **Creation of webpage/forum (replacing the app).** As noted above (section 4.6) the feedback from care leavers about the current app is not positive. They would like to have something more interactive, more dynamic – and less like the Council website. It is proposed that care leavers are involved in the process of creating a new resource, to ensure that it meets their needs and wants – thus reflecting the Corporate Parenting principle that we listen to the views of young people and allow them opportunity to express themselves.

Jenny Slade (Lead Design for Customer Experience and Digital Transformation) has stated that she could assign a content designer to work with a group of young people at the Foyer to co-design a new webpage or forum – as determined by the young people. Estimated time: 3-4 months. Estimated cost: £5,000.

- 7.5. It is important to note that the local offer is a living document that can be added to at any time, so it is anticipated that as more support is developed, or partnerships established that the local offer will be added to.

## 8. Governance

- 8.1. The implementation of these actions and the evaluation of the impact will be monitored through Corporate Parenting Board, whose membership reflects the cross-organisation ambitions of the enhanced local offer, on the bi-annual basis. An annual report will also be presented at Corporate Performance Group, as the Chief Executive is leading the project.
- 8.2. The regular updates will include monitoring actions and use of the local offer, and the impact of the new local offer on care leavers' experiences and outcomes. It will also recognise that some of these activities have been long-standing but have previously failed to enact change. These reports will be produced by the Leaving Care Team and Children's Commissioning.

## 9. Consultation

- 9.1 The proposals in this report have been considered and endorsed by People and Resilience Management Group at its meeting on 25<sup>th</sup> April 2019; Councillor Worby

at a portfolio holder meeting held on 4<sup>th</sup> June 2019 and Corporate Strategy Group at its meeting on 20<sup>th</sup> June 2019.

- 9.2 A period of consultation with care leavers is planned for July and August, following presentation at Corporate Parenting Board.

## **10. Financial Implications**

Implications completed by Katherine Heffernan, Group Manager – Service Finance.

- 10.1 This report seeks to enhance the current local offer to care leavers. Many proposals, such as the changing of the website and setting up a peer mentoring scheme, will be funded from within the Children's Social Care existing budget. Most of these items are relatively low cost for the Council.
- 10.2 The most expensive proposal is the recommendation to exempt care leavers from paying council tax up to the age of 25. This is estimated to cost around £0.15m per year for LBBB care leavers living in the borough and an unknown but fairly small amount more if care leavers from other authorities were exempted under reciprocal arrangements. If this recommendation were approved by Assembly, this exemption would feed through to the Council's budget through a reduction in the Council tax base. This would be taken into account in the MTFS for 2020/21 onwards
- 10.2 However, offsetting this council tax base reduction as a result of these recommendations, there is likely to be a decrease in bad debt and write offs and emergency payments made to care leavers in crisis, as well as further reducing the dependency on services that is experienced by some of our young people, although this has not yet been quantified.
- 10.3 The report also recommends that a Saving for Independence scheme should be set up for Care Leavers aged 21 to 25. There would be some work required to administer this. This work which would need to be managed by the Council's Learn to Live service within its existing resources.
- 10.4 The number and amount of exemptions provided to Care Leavers would be recorded by the Council Tax recovery team in Revenues and Benefits. It is recommended that the financial impact both to the young people and to the Council should be monitored and reported to the Corporate Parenting Board.

## **11. Legal Implications**

Implications completed by Dr Paul Field, Senior Governance Solicitor

- 11.1 The Local Government Finance Act 1992 section 13A(1) gives the Council the discretionary power to reduce liability for Council Tax in relation to particular cases or by determining a class of cases where national discounts and exemptions cannot be applied. Section 13A(1) states '*Where a person is liable to pay Council Tax in respect any chargeable dwelling and any day, the billing authority for the area in which the dwelling is situated may reduce the amount which he is liable to pay as respects the dwelling and the day to such extent as it thinks fit.*'. Furthermore, Section 13A(3) enables the Council to establish a scheme in relation to particular cases or by determining a class of case in which liability is to be reduced to an

extent provided by the determination. The proposed scheme which exempts care leavers who are living in the borough is reasonable being evidence based as it supports the Council's corporate parenting role for care leavers.

11.2 There are a number of pieces of legislation and statutory guidance that set out the role of the local authority in respect of children in care and care leavers. There are statutory obligations and guidance for the role of the Local Authority as the Corporate Parent in the Children's Act 2017, and the Children and Young People Act 2008.

## **12. Other Implications**

12.1 **Risk Management** – The budget for and impact of this policy will be monitored and reported to the Corporate Parenting Board which will help to mitigate risks to the council.

12.2 **Staffing Issues** – The Children's Commissioning Team and Leaving Care Team will work together to implement the proposals outlined above.

12.3 **Corporate Policy and Equality Impact** – The proposals outlined above link to the Council's priority of empowering people whilst protecting the most vulnerable, as research shows that care leavers are some of the most vulnerable in our society. It also links to the Council's vision of "no one left behind" by supporting these young people in their transition into independent living.

The proposals will also have the impact of reducing the inequalities between young people who have experience of being in care and those who do not, as national evidence indicates that far too often their life chances are significantly poorer than for their peers who are raised within a birth family. These proposals offer increased access to services and specific support, across health and wellbeing, relationships, education, training and employment, accommodation and participation in society in order to reduce the inequalities inexperienced.

12.4 **Safeguarding Adults and Children** – Children in care and those with care experience are some of the most vulnerable members of our society and national evidence indicates that far too often their life chances are significantly poorer than for their peers who are raised within a birth family. As corporate parents, we have a moral and legal obligation to prepare care leavers for their transition to adult life and independent living. This paper outlines the support and services available to care leavers within the borough to best prepare them for a happy, healthy and successful life as an adult. Under the Children and Social Work Act 2017, local authorities are required to publish their Local Offer for care leavers.

12.5 **Health Issues** – The Local Offer for Care Leavers includes specific health services for young people leaving care, such as LAC nurses and health passports, which have a positive impact on their health and wellbeing.

### **Public Background Papers Used in the Preparation of the Report:**

None.

### **List of appendices:**

Appendix 1 – Proposed Care Leavers' Local Offer

The Enhanced Local Offer

Specific Areas	Support included in current Local Offer	Existing support to be added to the new Local Offer	Additional support to be agreed for inclusion in new Local Offer
Social Workers	<ul style="list-style-type: none"> <li>• Regular visits</li> <li>• Ensures care leavers have annual medicals</li> <li>• PEPs</li> <li>• Contributes to LAC Reviews</li> <li>• Contributes to Transitional Care Plan Meetings prior to transition to YPA</li> <li>• Pathway Plans</li> <li>• Age Assessments for UASC</li> <li>• Risk Assessments (if required)</li> <li>• Speaks with appropriate services on young person's behalf</li> <li>• Provides finances for travel, education, trips, food, clothing, exam fees and college enrolment (for example)</li> </ul>		
Personal Advisors	<ul style="list-style-type: none"> <li>• Supports care leavers to develop a strong sense of themselves and their identity, background and history</li> <li>• Builds on family and significant positive relationships in preparation for adulthood</li> <li>• Enables care leavers to hold a sense of belonging to the community they live and connection to society</li> <li>• Help them understand what support is available, so that they make informed choices</li> <li>• Encourage them to develop confidence and self-esteem, ability to voice their opinions on key issues that affect them</li> <li>• Necessary skills to live independently</li> </ul>		

Accommodation	<ul style="list-style-type: none"> <li>• Encourage early joint planning</li> <li>• Help with housing applications</li> <li>• Bespoke packages of support for those who are not going to manage independent living</li> <li>• Staying put policy – stay with foster carers until 21</li> <li>• Set up home – purchase white goods and furniture – through a Leaving Care Grant.</li> </ul>	<ul style="list-style-type: none"> <li>• Review of housing pathways for care leavers</li> </ul>	<ul style="list-style-type: none"> <li>• Council tax exemption</li> </ul>
Finance and Paperwork	<ul style="list-style-type: none"> <li>• Help open a bank account</li> <li>• Get ID e.g. passport, birth certificates, provisional driving license</li> <li>• Help you get National Insurance number</li> </ul>	<ul style="list-style-type: none"> <li>• Homes and Money Hub support to support financial independence</li> </ul>	
Education, Employment and Training (EET)	<ul style="list-style-type: none"> <li>• University higher education bursary – £2000 per course</li> <li>• Laptop (for university students)</li> <li>• University holiday accommodation and travel warrants (dependent on location)</li> <li>• University Leaving Care accommodation bursary – £500 annually paid directly to landlord</li> <li>• University graduation equipment £150 (gown, photo)</li> <li>• University Maintenance Loan (£11,354 inner London, £8,700 outer London)</li> <li>• University student bursary (dependent on University)</li> <li>• Careers advisor available five days per week</li> <li>• Priority for council apprenticeships</li> </ul>	<ul style="list-style-type: none"> <li>• NEET (Not in Education, Employment or Training) panel for Care Leavers involving professionals from across the Council</li> <li>• Annual information and networking meetings who those interested in university and apprenticeships</li> </ul>	<ul style="list-style-type: none"> <li>• Traineeships and paid work placements to help prepare care leavers for apprenticeships and employment</li> <li>• Partners in the borough to offer guaranteed apprentice interviews for care leavers (if minimum criteria met) – matching Council’s current offer.</li> <li>• A bespoke local offer for UASC</li> </ul>
Health and Wellbeing	<ul style="list-style-type: none"> <li>• Health passport at 18</li> <li>• Help register at GP and other health services when care leavers move home</li> <li>• Financial assistance (where needed) with the cost of health, dental, optician services</li> <li>• Help to manage emotional well-being – may include CAMHS/services for Adults</li> <li>• Help attending doctors/hospital appointments</li> </ul>		<ul style="list-style-type: none"> <li>• Free leisure passes for care leavers and one friend</li> <li>• Free annual membership to the Youth Zone for care leavers</li> </ul>

	<ul style="list-style-type: none"> <li>• Help and support if the care leaver is a parent</li> <li>• Organising free access or discounted access to B&amp;D's leisure centres</li> <li>• Making sure care leavers have an adult they can trust should they get into trouble with the police</li> <li>• Support in pregnancy</li> </ul>		
Relationships	<ul style="list-style-type: none"> <li>• Personal advisor to support and encouragement to establish/maintain healthy relationships</li> </ul>		<ul style="list-style-type: none"> <li>• Peer mentoring scheme to empower care leavers to support each other.</li> </ul>
Participation and achieving well in society	<ul style="list-style-type: none"> <li>• Opportunity to participate in Skittlz (Children in Care Council)</li> </ul>	<ul style="list-style-type: none"> <li>• Annual Leaving Care Awards to celebrate the achievement and ambitions of care leavers</li> <li>• Ways of influencing practice and service development, e.g. training for professionals and involvement in recruitment of staff</li> </ul>	<ul style="list-style-type: none"> <li>• A stamp of approval from Skittlz on policies and documents aimed at young people</li> </ul>
Other			<ul style="list-style-type: none"> <li>• Text message service for easy, quick communication with care leavers</li> <li>• Creation of a new webpage/forum to replace to Learn2Live app to communicate the local offer to young people.</li> </ul>

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**CABINET****16 July 2019**

<b>Title:</b> Refurbishment and Change of Use of Grays Court Hospital, John Parker Cl, Dagenham RM10 9SR	
<b>Report of the Cabinet Member for Regeneration and Social Housing</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> Village	<b>Key Decision:</b> Yes
<b>Report Author:</b> Mark Crane, Head of Affordable Housing Delivery, Be First	<b>Contact Details:</b> Tel: 020 8227 2350 E-mail: <a href="mailto:mark.crane@befirst.london">mark.crane@befirst.london</a>
<b>Accountable Divisional Director:</b> Ed Skeates, Development Director, Be First	
<b>Accountable Directors:</b> Claire Symonds, Chief Operating Officer and Graeme Cooke, Director, Inclusive Growth	
<b>Summary</b>	
<p>Grays Court Hospital on John Parker Close, Dagenham was constructed in 2005, and occupied by the NHS until May 2019. The 0.41ha site is currently vacant, with the exception of the Partnership of East London Cooperatives (PELC), a not-for-profit social enterprise delivering NHS integrated urgent care services. They occupy two small office rooms out of normal office hours (Mon-Fri between 6pm and 10.30pm and Sat/Sun 8am to 10.30pm) to operate their out of hours GP service.</p> <p>The Council owns the freehold of the site and as the NHS have vacated the building, a long-term use needs to be identified. An options analysis has been undertaken assessing the development potential of the site.</p> <p>There is significant demand for Temporary Accommodation (TA) that can be used as emergency short-term accommodation for families. Since the changes to legislation under the Homelessness Reduction Act 2017 the Council has seen a marked decrease in homeless approaches by single people and sharp increases in approaches from families. The lack of emergency accommodation for families prevents short-term placement in TA while long term affordable, suitable accommodation is found.</p> <p>In order to respond to this demand, it is proposed that Grays Court Community Hospital is refurbished to provide c.56 family temporary accommodation rooms. Having a ready supply of this type of accommodation reduces the need to procure much more expensive private sector accommodation.</p> <p>It is also proposed that on-site support services are provided by relocating the Community Solutions Team currently based at John Smith House to Grays Court Hospital.</p> <p>The refurbishment of Grays Court Hospital would enable the Council to respond to this need by providing a more flexible TA offer, including larger family rooms. Together with dedicated support provided by Council staff on-site, this will enable the people living at Grays Court Hospital to find long-term accommodation more quickly. By providing on-site support a number of benefits would be provided to residents including:</p>	

- Providing training and employment opportunities
- Live healthier lifestyles
- Family support, including children's support, play and speech sessions, family counselling

Furthermore, Grays Court Hospital could act as a community hub, providing access to facilities and services for the wider community. Possibilities for additional community facilities at this site include:

- A further Community Food Club
- Cooking school and meal sharing offer
- Education and training offer
- A family learning offer
- Careers fairs and job clubs
- The continuation of the out of hours GP service from this building

The refurbishment of Grays Court Hospital would, once complete, allow the Temporary Accommodation (TA) currently provided at Brocklebank Lodge to be decommissioned as part of the Council's strategy to develop a fit for purpose TA portfolio. Brocklebank Lodge is in poor condition and requires significant investment in order to remain operational in the longer term. However, current provision at Brocklebank Lodge is primarily for smaller (single) Temporary Accommodation units, for which there is low demand.

Brocklebank Lodge would become operationally surplus once Grays Court is open. Options for the future use of the Brocklebank Lodge site will be developed and taken through the Council's governance process in due course.

Planning permission will be required to change the use at Grays Court.

The local community will be engaged at an early stage of the design and planning process, so that they have an opportunity to input into the scheme design, in order to seek their support for the proposals prior to the submission of the planning application.

The initial feasibility work assessing the development potential of the site has been reviewed by the Corporate Performance Group, who confirmed that the recommended option achieves the required level of financial return to the Council.

Cabinet approval is therefore sought to refurbish Grays Court Hospital to provide new temporary accommodation (TA).

Be First would prepare a detailed planning application and procure the works.

The estimated development costs are c.£3,951,000, to be funded through the Council's Capital Programme.

**Recommendation(s)**

The Cabinet is recommended to:

- (i) Approve the refurbishment of Grays Court Hospital to provide c. 56 temporary accommodation units and ancillary office space for the relocation of the Community Solutions Team;

- (ii) Agree to funding up to £3,951,000 within the Capital Programme to finance the refurbishment of Grays Court Hospital to cover the Total Development costs to deliver the scheme;
- (iii) Delegate authority to the Director of Inclusive Growth, in consultation with the Director of Law and Governance and the Chief Operating Officer, to negotiate terms and agree the contract documents to fully implement and effect the project; and
- (iv) Authorise the Director of Law and Governance, or an authorised delegate on their behalf, to execute all the legal agreements, contracts and other documents on behalf of the Council.

**Reason(s)**

To support the:

- Regeneration and development of the borough
- Provision of a fit for purpose Temporary Accommodation offer
- Provision of community and social benefits
- Development of an asset to maintain its long term economic and social use.

**1. Introduction and Background**

**Grays Court Hospital Building**

- 1.1 The site comprises a 4,617m<sup>2</sup> purpose-built community hospital, constructed in 2005. The building is split into a residential unit (approximately 45 beds) and day care centre. The day care centre is located on the ground floor, with its own entrance. A site plan and aerial photos are provided in Appendix 1.
- 1.2 The building was occupied by the NHS until May 2019 on a Full Repairing and Insuring lease, paying an annual rent of £292,772. The hospital provided health care services for patients throughout north-east London. However, due to the reduction in demand for bed spaces the building no longer meets their operational requirements. As a result, the NHS have relocated to a new facility in Romford. The building is currently vacant, with the exception of the PELC, who occupy two small offices to provide an out of hours GP service. They have advised that they wish to remain at the property in the short-term.
- 1.3 The building is in good condition. An opportunity has been identified to reconfigure and change its use to respond to the current and future demand for temporary accommodation, specifically from families. There is also scope to provide public access to part of the building (that was previously used as a day care centre), so that the local community can benefit from the facilities and services provided from Grays Court Hospital.

**Temporary Accommodation Need**

- 1.4 The Council's temporary accommodation consists of emergency accommodation, use of decant Council stock, a building leased from London and Quadrant Housing

and Private Sector Leases through private landlords of privately rented property. The emergency stock owned by the Council consists of four buildings: Boundary Road and Brocklebank Lodge which are both accommodation for single people, and Riverside and Butler Court, which can provide emergency accommodation for families.

- 1.5 Since the changes to legislation under the Homelessness Reduction Act 2017 the Council has seen a marked decrease in homeless approaches by single people and sharp increases in approaches from families. 2018/19 saw a 95% increase in numbers of households approaching as homeless (1,082 in 17/18 and 2,106 in 18/19). While there has been strong performance in terms of preventing homelessness, the lack of emergency accommodation for families prevents short-term placement in TA while long-term affordable accommodation is found. Increasing the supply of emergency accommodation suitable for families, together with on-site support services, would enable a better service to be provided to customers to help them find long-term accommodation more quickly.

### **Brocklebank Lodge**

- 1.6 Brocklebank became a TA facility 6 years ago and was previously housing for older people, before providing 35 TA rooms for single people. The building is in a poor state of repair and in need of significant improvement. In order to meet the current demand for TA by families, it would need substantial internal works to reconfigure the space in order to make it suitable to accommodate customers' needs. However, this would result in the number of units falling to around 15, significantly less than the 56 rooms that could be created at Grays Court Hospital.
- 1.7 The redevelopment of Grays Court for TA would meet demand for family TA rooms in the Borough, thereby making Brocklebank Lodge operationally surplus as a TA facility, providing an opportunity for future development. Any decision on the future of Brocklebank Lodge would be subject to a future Cabinet decision.

### **Wider Community Benefits**

- 1.8 There is also an opportunity to provide additional community facilities at this site which could include:
- A new Community Food Club, offering discounted food alongside budgeting, employment and skills and healthy lifestyles advice. This offer is working well in Heath Ward and is to be extended to a number of other sites through 2019. This could be a location which would be of benefit to the local community and a service which would also be accessed by residents of Grays Court.
  - Cooking school and meal sharing offer linked to the food club. Cooking skills help residents save money, reduces waste, and improve their health, and encourage community engagement.
  - Offer of specific training to meet the needs of the community, for example English for Everyday, which is a free course, which aims to improve people's confidence in to communicate in English, to enable them to access further learning and take their first steps on an employment pathway.

- Family learning offer - learning as a family is a way of encouraging whole life learning, strengthening family relationship and improving school achievement. This can also be used as a way of giving adults the confidence to engage in adult learning and make them aware of the opportunities this may provide them to improve their employment prospects and with this their income.
- Careers fairs and job clubs - to promote the employment opportunities currently available in and around the borough, with support around CV writing, interview skills and linked to our adult education offer.
- The continuation of the out of hours GP service from this building - the PELC use part of the building to provide an out of hours (evening and weekends) GP service. It is proposed that this continues.

## 2. Proposals

### Options Analysis

- 2.1 Feasibility work was carried out exploring a range of development options for Grays Court Hospital. Following a review of the design feasibility work by the Investment Panel, three options have been appraised:
1. Do Nothing.
  2. Demolition and redevelopment to deliver to deliver c.44 affordable homes.
  3. Refurbish Grays Court Hospital to provide c.56 new TA family rooms, ancillary office space for Council support staff, and publicly accessible community space (recommended option).

### Financial Summary

- 2.2 Whilst options 1 and 2 represent a viable investment proposition, and would achieve the Council's financial return targets, they deliver a lower return in comparison with Option 3 (the recommended option),
- 2.3 The operating revenue for a new TA facility (net of operating costs) is estimated at c.£753k per annum, which is significantly higher than the rental income received when the building was let to the NHS (c.£293k per annum).
- 2.4 Option 3 also provides an opportunity to optimise long-term operating revenue, with lower capital investment compared with the option to redevelop the site for housing.
- 2.5 The investment metrics for the option 3 are summarised as follows:

Performance metric	Actual	Target
Year 1 Surplus	£647,000	£0
Year 6 surplus	£574,000	£0
Operational IRR	21.2%	7%
Net Present Value (3.5% discount rate)	£40,330,000	£0
Yield on Cost	20.8%	4%

- 2.6 Total development costs are estimated at £3,951,000, c.£300,000 of which would be incurred to secure planning permission and procure the contractor, prior to works commencing on site.

### **Planning Policy Considerations**

#### Community Uses

- 2.7 The current use as a community hospital is classified as D1 community use. At both a regional and local level, planning policy strongly resists the 'unnecessary' loss of Class D1 community facilities. Local policy states that development proposals which will result in the loss of a community facility will be accepted if one (or more) of the following criteria is met:
- i The facility is replaced within the new development;
  - ii The facility is re-located, or a better facility is provided in a more appropriate building or location on another site which improves its accessibility in terms of proximity, walking and public transport, safety and physical accessibility; or,
  - iii The Council is satisfied that the facility is no longer needed and there are no reasonable prospects of reuse by an alternative community use despite attempts (over a minimum period of 12 months) to market it.
- 2.8 The NHS has identified the Community Hospital facility as surplus to operational requirements due to the lack of use of the bed spaces, and has relocated to a new building in Romford, clearly demonstrating that there will be no shortfall in provision of health services for the local community. This fulfils the requirements of criteria ii above. There is substantial and pressing need to provide temporary accommodation in the borough. This is a significant material consideration which helps justify the loss of the Class D1 use in this instance.
- 2.9 The PELC currently provide an out of hours GP service from Grays Court. A policy compliant approach will require either: the facility to be replaced within the new development; or, the facility to be relocated to a more appropriate location. It is proposed that the PELC remain at Grays Court, and discussions with them are continuing in order to agree the arrangements for their ongoing occupation of the building.
- 2.10 The principle of new temporary residential accommodation, designed to meet an acute identified need, is supported in planning policy terms.

#### Design Considerations

- 2.11 Temporary residential units are Sui Generis (class of their own) uses and, therefore, are not required to adhere to the minimum internal space/private amenity space standards set out in the London Plan. Nevertheless, all units should be designed to ensure that they are fit-for-purpose and are of the highest standard possible.
- 2.12 While Sui Generis uses are not required to meet zero carbon standards, a minimum of 35% carbon savings over Part L of Building Regulations should be pursued.

- 2.13 Planning policy acknowledges the need for car parking in outer London locations with poor PTALs, especially to address overspill parking pressures. The approach, however, should be to discourage car reliance by limiting car parking provision and utilising other mechanisms (such as car clubs). Evidence submitted with recent temporary accommodation planning applications (Weighbridge and Wivenhoe) shows that car ownership of existing temporary accommodation population is typically less than 25%. Sufficient provision will need to be made for disabled car parking.
- 2.14 A transport consultant would be appointed to inform an appropriate level of car parking to be provided to support the use without causing adverse impacts on local highways.
- 2.15 More detailed design analysis will be undertaken as part of the next stage of the design and planning process.

### **Recommended Option**

- 2.16 The recommended option (Option 3) is to refurbish Grays Court to provide:
- c. 56 Temporary Accommodation units.
  - office space for Council staff at John Smith House to relocate to Grays Court in order to provide on-site support services for people living in the TA.
  - two office rooms to the PELC (should they wish to continue to occupy the building) to operate their out of hours GP service between the hours of Mon-Fri between 6pm and 10.30pm and Sat/Sun 8am to 10.30pm.
  - publicly accessible community space.
- 2.17 This option is recommended as it:
- Provides a fit for purpose TA offer, that improves the financial return to the Council in the long-term.
  - Facilitates the relocation of Community Solutions staff at John Smith House to better quality facilities at Grays Court, improving the quality of support services for the community.
  - Is the quickest and most cost-effective solution to provide a sustainable fit for purpose TA offer across the Council's portfolio.
  - Meets planning policy requirements at Grays Court Hospital.
  - Would enable Brocklebank Lodge to be released for redevelopment (subject to a future Cabinet report).

### **3. Delivery Arrangements**

- 3.1 It is proposed the scheme is delivered by Be First, who will progress the project through the planning process, and manage the delivery of the works. It is proposed

that a contractor for the works is procured through the Be First construction framework.

## **Programme**

3.2 The following programme is proposed:

<b>Gateway Progress Dates</b>	<b>Date</b>
<b>Cabinet approval</b>	July 2019
<b>Contract Award</b>	July 2019
<b>Planning Submission</b>	September 2019
<b>Planning Permission</b>	January 2020
<b>Start on Site</b>	January 2020
<b>Practical Completion</b>	March 2020

3.3 Two months has been allowed to prepare the planning application, including public consultation, and a 13-week determination period.

3.4 Works are estimated to take two months to complete.

## **Funding**

3.5 The estimated development costs are c.£3,951,000 to be funded through the Capital Programme.

3.6 The pre-development costs are estimated to be c.£300k, to undertake building surveys, prepare the planning application, and procure the contractor.

## **4. Consultation**

4.1 There has been no public consultation on this scheme to date. Subject to cabinet approval public consultation will be carried out on the proposals to inform the design and use of the building prior to the submission of the planning application.

4.2 A meeting was held with ward councillors on June 24<sup>th</sup> to brief them on the proposals. They were supportive of increasing the supply of temporary accommodation for families at this location providing the following issues were adequately addressed to ensure local residents were not adversely affected, and could also benefit from the new community facilities:

- Security and safety issues arising from changing the use to temporary accommodation.
- A robust management strategy is in place to ensure the property is maintained in good condition, and the risk of anti-social behaviour is minimised.
- Adequate car parking arrangements to be provided for on-site staff and TA residents.

- Adequate indoor and outdoor space and facilities for children.
- Community facilities are available to local people and add value to the existing community offer provided in the local area.

4.3 The PELC have been informed of the Council's proposals. Whilst the PELC have advised that they are seeking alternative premises, they have yet to identify anywhere they can relocate to. It is therefore proposed that they remain at Grays Court Hospital during the refurbishment works, and once the new TA facility is operational, to ensure that they can continue to provide their out of hours GP service until they find suitable alternative arrangements.

## **5. Financial Implications**

Implications completed by: David Dickinson, Investment Fund Manager

- 5.1 Council borrowing from the Capital Programme of £3,951,000 is required to deliver the project, based on the proposed programme, of which £300,000 would be incurred prior to works commencing.
- 5.2 If option 3 is agreed, this will potentially provide a year 1 surplus of £647k and a year 6 surplus, when all borrowing costs and management costs are incurred, of £574k.
- 5.3 A new TA facility at Grays Court would provide improved operating revenues compared with the current TA facility at Brocklebank Lodge. Brocklebank Lodge would become operationally surplus, thereby providing an opportunity to redevelop the site. This will be subject to a separate report and approval.

## **6. Commissioning Implications**

Implications completed by: Graeme Cooke, Director of Inclusive Growth

- 6.1 The proposals set out in this report would increase the supply of accommodation that can be used to house families in the short-term while further assessments are carried out and longer-term housing options identified. Having a supply of this type of emergency accommodation reduces the need to procure much more expensive private sector accommodation. It also means that the Council can be sure of the quality of the accommodation and building management. As such, the proposals are in line with the Council's Homelessness Strategy.
- 6.2 As the report explains, once the temporary accommodation at Grays Court is available, this will allow the temporary accommodation at Brocklebank Lodge to be decommissioned. The current provision at Brocklebank does not meet the need for family-sized emergency accommodation, and Brocklebank is in poor condition and as such would need investment if it were not decommissioned. The future use of the Brocklebank site once the temporary accommodation has been decommissioned will be subject to a future Cabinet decision.

## **7. Legal Implications**

Implications completed by: Paul Feild, Senior Governance Lawyer Legal, Kayleigh Eaton – Senior Contracts and Procurement Solicitor

- 7.1 The Homeless Code of Guidance 2018 provides that hostels can offer short-term accommodation to people who are experiencing homelessness, and housing authorities will wish to ensure they make the most effective use of services available, and that accommodation is suitable for the applicants placed there. Hostel accommodation that involves families or pregnant women sharing facilities with other households will not be suitable for longer-term placements.
- 7.2 The provision of temporary accommodation is a responsibility of the Council within the general fund. It is not until a duty to provide housing has been established does the cost of housing become located within the housing revenue account.
- 7.3 Any redevelopment must be procured in accordance with the Council's Contract Rules and where the works exceed the threshold set out in the Public Contracts Regulations 2015 (the 'Regulations') (currently set at £4,551,413) then the procurement must be conducted in line with the Regulations.
- 7.4 It is noted that the Council owns the freehold of this site which is currently vacant (with the exception of the Partnership of East London Cooperatives occupying two small office rooms) as the lease between the Council and the former NHS tenant was determined in May 2019. It is also noted that there will be no disposal of this asset. Subject to obtaining the appropriate planning permission to change the use from the current D1 community use and on informing the Council's Property Services Team of the potential change in use, the Council will be able to establish this much needed resource in the Borough to provide a more flexible temporary accommodation service suitable for families, together with on-site support services.

## **8. Other Implications**

### **Corporate Policy and Equality Impact**

- 8.1 An Equalities Impact Assessment (EIA) Screening Report has been carried out, which concluded that a full EIA is not required at this stage due to the net positive impact of the proposals, particularly responding to the greatest need for providing emergency accommodation, and associated support services, which will be accessible to a wider demographic. Furthermore, the NHS have confirmed that the community hospital is surplus to their requirements in this location and have relocated to a new facility in Romford.
- 8.2 Should the public consultation bring to light any further equality issues, this position will be reviewed, and a full EIA will be carried out prior to the submission of the planning application if required.

## 9. Risk Management

### Securing Planning Permission

- 9.1 Refurbishment of Grays Court Hospital to provide TA will require planning permission to change the use from the current D1 community use. There are specific criteria to justify the loss of D1 space, which are met by the proposals, as the NHS have confirmed that the building is surplus to their requirements. Where it is demonstrated that there is still demand for D1 space (for example the PELC's requirement for space), this will be accommodated within the proposals.
- 9.2 Furthermore, it can be demonstrated that there is strong demand for TA, thereby supporting the proposed change of use.
- 9.3 Public consultation will be carried out on the design and use of the building in order to inform and seek public support for the proposals prior to the submission of the planning application.

### Costs increases

- 9.4 The costs are based on a high-level cost plan, assessing the works required to reconfigure the layout and change the use. A 10% contingency has been allowed for in the cost estimate.
- 9.5 A survey of the building will be undertaken prior to the preparation of the detailed drawings, so that a robust scope of works can be prepared and costed prior to submission of the planning application and entering into the works contract.

### Programme delays

- 9.6 The programme aims to open the new TA facility by the end of March 2020. There is a risk of delay, for example due to delays to securing planning permission, and unknown issues with the building increasing the duration the works. Regular discussions will be held with the planning team during the design and planning process to ensure the proposals meet planning policy requirements. A building survey will be undertaken at the outset in order to inform the design and scope of works, and any programme implications. The programme will be continuously monitored throughout the various stages of the project.

### Vacant space at John Smith House

- 9.7 An alternative use for the space vacated by the Community Solutions staff based at John Smith House needs to be identified. A number of potential occupiers have been identified and discussions are ongoing to find the most cost-effective use that also delivers benefits to the local community.

### **Public Background Papers Used in the Preparation of the Report:**

None.

### **List of Appendices:**

Appendix 1 - Site Plan and Aerial Photos

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Site Plan and Aerial Photos





## Cabinet

16 July 2019

<b>Title:</b> Children's Care and Support Improvement Programme	
<b>Report of the Cabinet Member for Social Care and Health and Integration</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> Yes
<b>Report Author:</b> Chris Bush; Commissioning Director, Children's Care and Support	<b>Contact Details:</b> Tel: 0208 227 3188 E-Mail: <a href="mailto:christopher.bush@lbbd.gov.uk">christopher.bush@lbbd.gov.uk</a>
<b>Accountable Director:</b> Chris Bush; Commissioning Director, Children's Care and Support	
<b>Accountable Strategic Leadership Director:</b> Elaine Allegretti; Director of People and Resilience	
<p><b>Summary</b></p> <p>The Children's Improvement Programme has been developed in response to several emergent factors over the past 12 months that have coalesced to make clear both the need for improvement in Children's Care Support services as well as the nature of those improvements required.</p> <p>In June 2019 Cabinet were presented with the findings of the OFSTED ILACS inspection conducted in February 2019 where the service was judged as 'Requires Improvement'. This report was introduced alongside the 'OFSTED Improvement Plan' that we as a Council are required to publish, setting out how we will address the recommendations made by OFSTED at the conclusion of the inspection.</p> <p>Cabinet consented to this plan and it was formally published on 9 July 2019.</p> <p>Whilst 'getting to good' is our ambition, the required improvements go beyond just responding to OFSTED. In recognition of this, several strands of improvement activity have been carefully compiled into a coherent whole. These strands of work comprise the Children's Care and Support Improvement Programme and are described in a Programme Initiation Document (PID) in accordance with the Council's methodology for delivering transformation and improvement.</p> <p>This report introduces the PID for the Children's Care and Support Improvement Programme. It describes the four key strands of improvement activity, summarises the approach that will be taken and sets out both the expected benefits and outcomes alongside resource – and other - implications of the programme. Approval to proceed is requested.</p>	

## **Recommendation(s)**

Cabinet is recommended to agree:

- i. The Children's Care and Support Improvement Programme at Appendix 1 and note the inherent commitment to the set of standards and prerequisites as set out in section 3.3 of the report.

## **Reasons**

The Children's Care and Support Improvement Programme is a key pillar of the Council's plans to deliver the required improvement to Children's Social Care and secure an improved inspection outcome in 2021.

## **1. Introduction and Background**

- 1.1 The model for Children's Care and Support is no longer fit-for-purpose. The entrenched needs of some of our residents, coupled with emerging risks to children are placing strain on a system that is increasingly unable to meet them. The situation is compounded by a growing, rapidly changing population that is pushing the existing system close to breaking point.
- 1.2 In February 2019 the service was subject to a two-week OFSTED ILACS Inspection. This inspection judged that the service 'requires improvement' and makes clear and specific recommendations where that improvement is most needed to get to 'good'. In many cases work was already underway to make these improvements, and OFSTED recognised that we were already aware of what needed to improve, that our plans for doing so were sound and - in some cases – already making a difference.
- 1.3 To meet these challenges, several strands of improvement activity have been carefully compiled. These strands of work comprise the Children's Care and Support Improvement Programme. The Programme Initiation Document brings these together into a coherent whole and seeks to connect the clear drive for improvement to the financial challenges the Council is facing, addressing the OFSTED Improvement Plan, the new Target Operating Model (presenting first an 'Improvement Structure' and then an 'Efficient Structure'), as well as several policy and strategic requirements. This programme is also closely linked to the emerging Theory of Change and where possible, we have referred to this and ensured the programme is aligned to the developing structure and work of the Council, both now and in the future.
- 1.4 This report introduces the PID for Children's Care and Support Improvement Programme. It describes the four key strands of activity, summarises the approach that will be taken and sets out both the expected benefits and outcomes alongside resource, and other implications of the programme.

## **2. The Children's Improvement Programme**

- 2.1 To develop the improvement programme a series of approaches were taken to ensure that the proposed changes are the right ones and will have the intended

impact. Several externally commissioned tests of the system were performed to ensure a full understanding of the strengths and weaknesses and culminated in the production of the Annual Self Evaluation. To supplement this, the OFSTED ILACS Inspection provided both a test of the system itself, as well as of our plans (as set out in the Self Evaluation) to improve. This was an important stage in evaluating our intended approach.

- 2.2 Our plans were further developed through a series of facilitated workshops with key stakeholders, particularly those with expertise in frontline practice and, most importantly, those who are/will be delivering services to children and young people. We will continue to use these methods and expand on our use of various user-led forums to ensure the changes being implemented will meet the needs of our vulnerable residents, of our staff, and of the Council. Most importantly this approach, alongside the Programme Outcomes Framework, will tell us if the change is working.
- 2.3 Put simply, the objective of the programme is to improve the quality and long-term financial sustainability of Children’s Care and Support. The programme incorporates all our work under a single plan, with four key strands:

Fig 1. The four strands of the Children’s Care and Support Improvement Programme

<p style="text-align: center;"><b>Strand One</b> Practice Improvement</p>	<p style="text-align: center;"><b>Strand Two</b> Service Improvement</p>
<p style="text-align: center;">Detailed plan to improve Social Work Practice and respond specifically to learning from OFSTED (as well as what we already knew).</p>	<p style="text-align: center;">The tools, policies and procedures that set out our approach to Social Work practice and supports practitioners to do their jobs.</p>
<p style="text-align: center;"><b>Strand Three</b> Service Design</p>	<p style="text-align: center;"><b>Strand Four</b> Strategic Planning</p>
<p style="text-align: center;">The structural and organisational changes to be made in order to directly support the first two strands i.e. getting the right people.</p>	<p style="text-align: center;">Our Multi-Agency Safeguarding and Vulnerable Children arrangements and the Council’s Theory of Change.</p>

- 2.4 The size of this programme should not be underestimated in terms of scope, ambition and financial implications. Each strand of work has a detailed delivery plan, and in some cases these plans are already underway. There are also a series of key outputs that the programme must deliver, as below.

1	Deliver the OFSTED Improvement Plan.
2	Implement the new Target Operating Model for Children’s Care and Support.
3	Move to the Efficient Structure Target Operating Model within the specified timescale.
4	Improve outcomes for children and young people, particularly – but not limited to - those identified in the OFSTED Improvement Plan.
5	Ensure the relevant policies, procedures and protocols are in place to support high-quality Social Work practice.
6	Develop the requisite Commissioning Plans (to make sure that the correct services are in place in the most cost-effective way).
7	Deliver the above objectives within the financial envelope specified and against the projected financial trajectory.

2.5 To understand whether the programme is working, a bespoke outcomes framework has been developed. This framework sets out the key indicators with a set of success criteria for each outcome to demonstrate what is improving and what is working well throughout the life of the programme. It does not replace the existing Children’s Care and Support performance management framework and is not inclusive of all key performance indicators across the service.

2.6 The indicators have been selected to demonstrate the programme effect and to aid the refresh of the Vital Signs dashboard. They are closely linked to the recent OFSTED inspection and the resultant Improvement Plan and can be grouped as follows:

Fig 2. Children’s Care and Support Improvement Programme: Outcomes Framework themes



2.7 The outcomes framework is just one way that we will know whether the programme is working and having the intended impact. There are a range of tests that we will apply as part of a routine package of assurance. Many of these are tests that we would apply as a matter of good operation, but these will be tailored to ensure that they are also able to determine the effective implementation of the programme. This work will include:

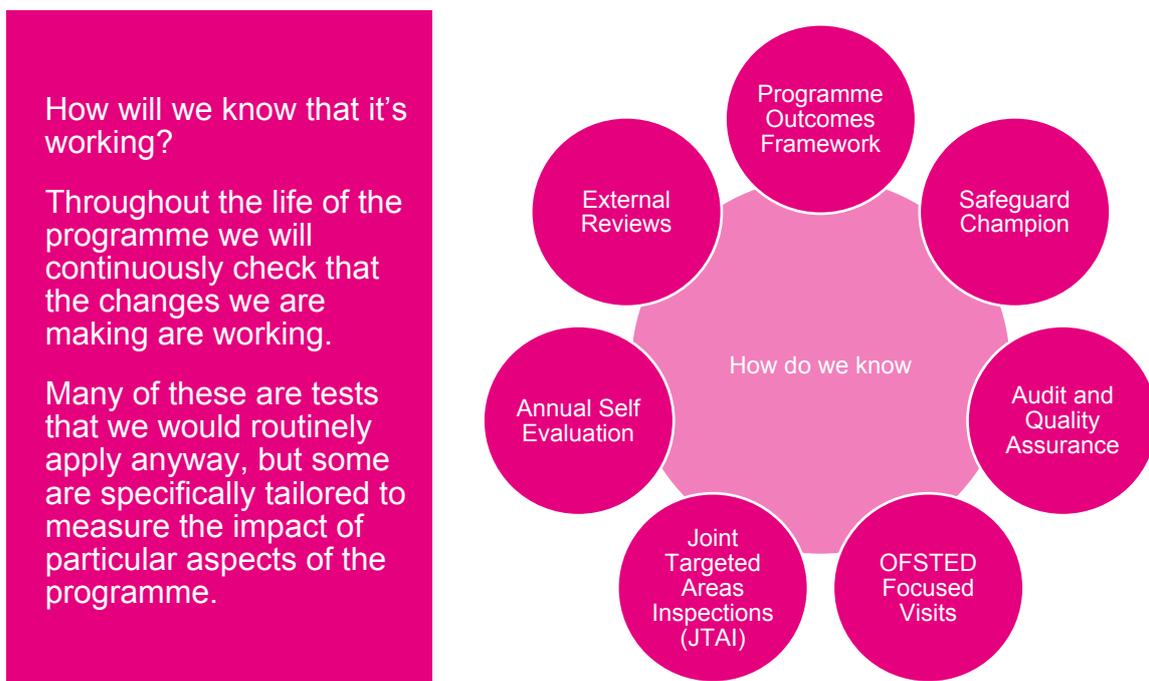
**External tests of the system:** this will include those we commission for ourselves e.g. peer-reviews and targeted evaluations in key areas such as Early Help, as well as those that are mandated i.e. Focused Visits and Joint Targeted Area Inspections (JTAI) that will be performed by OFSTED inspectors.

**Annual Self Evaluation:** we are required to produce a self-evaluation of Children’s Care and Support each year, and this will be a key document that will outline progress. This will be presented to OFSTED colleagues each year at our Annual Engagement Meeting.

**Audit and Quality Assurance:** our Quality Assurance Framework sets out how we will use our rolling programme of case audits and thematic ‘deep dives’ to understand that effectiveness of our services and inform continuous improvement. This includes multi-agency auditing to test the response of partners in the system.

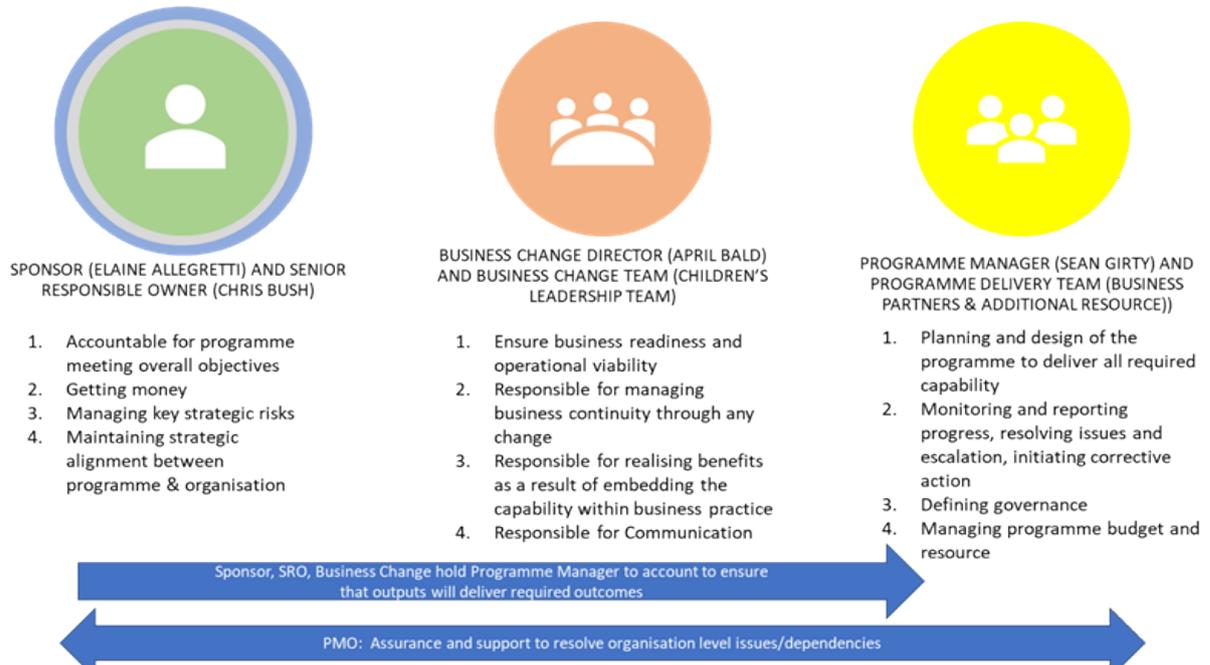
**Safeguarding Champion:** the role of Safeguarding Champion – as set out in the new Multi-Agency Safeguarding Arrangements (MASA) – will ensure that the lived experiences of our children and families are a constant feature in our assurance processes and actively used to inform continuous improvement.

Fig 3. Children’s Care and Support Improvement Programme: Assurance themes



2.8 The PID proposes the following governance, to ensure the secure delivery of the Improvement Programme (section 4.3 of the PID, appendix 1).

Roles and Responsibilities



2.9 In addition to this governance, the Programme will draw on the expertise and critical challenge of the PMO, using their regular processes to incorporate financial tracking, vital signs and programme oversight. The detail of this is included in the PID and has been approved by the PMO.

**3. The Cost of the Improvement Programme**

3.1 Transforming Children's Care and Support and delivering the improvement required to get to good will require significant investment. This investment comes in two forms: an increase in the revenue budget required to support the new Target Operating Model (TOM) for Children's Care and Support (predominantly an increase in staffing); and the short-term, one-off capital costs required to adequately resource the Improvement Programme activity.

3.2 The majority of the revenue costs are associated with increasing – and changing – the staffing establishment to implement the new TOM. There are two distinct phases to this:

**The Improvement Structure:** the short-to-medium-term structure required to stabilise the service, respond to immediate demand pressures and deliver the improvements outlined in the OFSTED Improvement Plan; and

**The Efficient Structure:** as improvements are made, changes embedded and the expected impact that working differently will have on the system we expect to be able to move to a leaner structure.

3.3 When developing our plans, careful consideration was given to how the service could best be structured to meet the needs of our children and young people in the most efficient possible way, whilst delivering the improvements required for an improved OFSTED inspection the next time around. In doing so, there were some key parameters defined, and assumptions made. These were:

- A caseload ratio of no greater than 1:15 would be established;
- The ratio of Managers to Social Workers would not exceed 1:6;
- The proportion of the social workforce that are agency staff can be reduced to 15%;
- Demand models used to predict future demand growth are not exceeded i.e. demand management strategies in other parts of the system e.g. Community Solutions are successful;
- The one-off resources required to deliver the programme are made available.

Whilst other assumptions have been made, as outlined in the PID, these are the ones that are most critical to the success of the programme and it is important to note that meeting these standards is a key commitment that we are making.

### **Revenue Budget Implications**

3.4 The new Target Operating Model (TOM) for Children's Care and Support services costs, at its' peak, £3.5m more per annum than the existing model. £1.6m of these costs will be met by using existing resources from elsewhere in the Council differently and through external funding sources i.e. either contributions from partner agencies or grant funding. The remaining £1.9m will be funded through an increase in expenditure by Children's Care and Support.

3.5 The first phase of the proposed Target Operating Model (the 'Improvement Structure') places an additional pressure of £1.9m on the Children's Care and Support budget in 2019/20 and 2020/21. In the second phase of delivery – at the end of 2020/21, for impact in 2021/22 - a reduction in expenditure of £1.15m is planned as the 'Efficient Structure' of the TOM is implemented.

3.6 In 2019/20 growth of £1m was allocated through the MTFP and a further £1.56m of funding has been made available from the Social Care Grant. This £2.56m is tempered by a removal of pre-existing savings targets from the based budget of £1.12m. A net growth of £1.44m. There are plans in place to make these savings.

3.7 In 2020/21 the MTFP proposes growth of £3m and makes provision to replace the £1.56m Social Care Grant should it cease. This £3m of growth is, again, tempered by pre-existing savings targets of £1.46m for which savings plans will be in place to be removed from the base budget. A net growth of £1.54m.

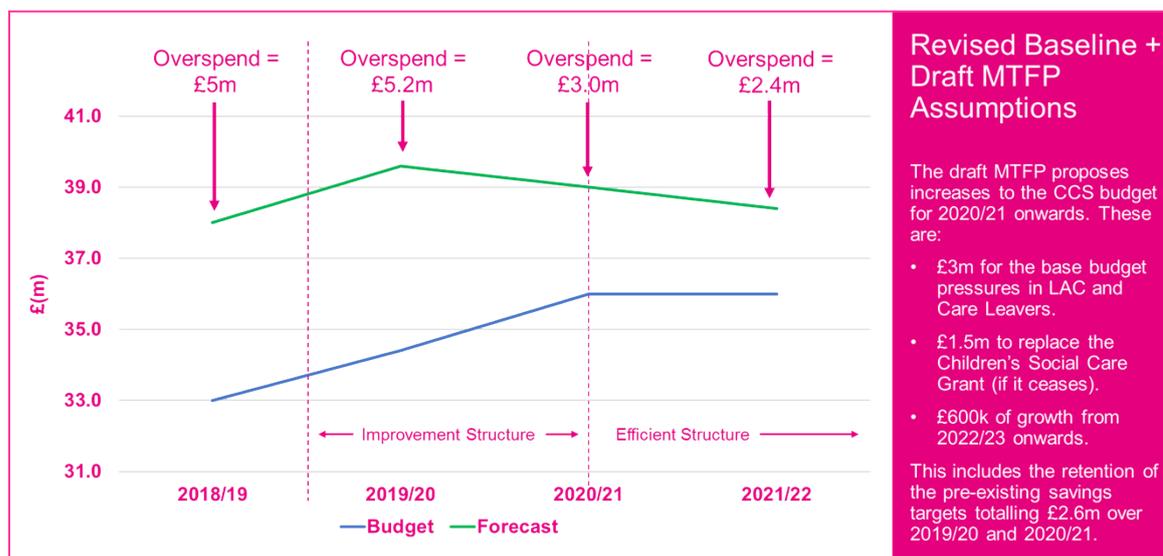
3.8 In the second phase of delivery – at the end of 2020/21, for impact in 2021/22 - a reduction in expenditure of £1.15m is planned as the 'Efficient Structure' of the Care and Support Operating Model is implemented.

3.9 The new MTFP also proposes a growth of £600k per annum to account for an expected increase in costs for Looked After Children. The proposal is that this does

not commence until 2022/23 so does not impact on the forecasts for the next three years.

- 3.10 The implications for the Children’s Care and Support budget over the next three financial years is set out below. Given the inherent pressure of circa. £5m from 2018/19, the true cost must be considered within this context: the implications of this are a pressure in Children’s Care and Support of £5.2m in 2019/20; £3m in 2020/21 and £2.4m in 2021/22.

Fig 4. Children’s Care and Support Budget and Expenditure Forecast: 2018/19 – 2021/22



### Transformation Budget Implications

- 3.11 In order to support the delivery of the improvement plan, this PID proposes the release of £1.095 in transformation funding. (This means one-off funding to be provided via the Flexible Use of Capital Receipts or from the Budget Support Reserve.) This funding which will be held separately from the day to day operational budget will enable the project team to deliver the full programme of improvement, including its asks of other areas of the Council, such as Finance, HR, systems and Communications. This budget will be held by the Programme Manager and delegated as posts are recruited to and/or work is delivered. Any underspend will be returned at the close of the programme. The full breakdown of these costs is detailed in section 4.1 of the PID with wholly new resource in yellow.

- 3.12 These posts will be individually approved by Workforce Governance Group ahead of recruitment.

## 4. Programme Plan

- 4.1 A detailed Delivery Plan has been developed that stages the implementation of each component of the Improvement Programme. This is described in some detail in the Programme Initiation Document.

The key milestones are:

Date	Element/Change
Sep 2019	New Brokerage and Placements Service
	New Service Development and Business Support function
Oct 2019	New Multi-Agency Safeguarding Partnership arrangements begin
Nov 2019	Accommodation reorganisations/moves completed
	New Recruitment and Retention Scheme launched
Dec 2019	Plans fully implemented: OFSTED recommendation 5
Mar 2020	Full implementation of the new Target Operating Model:
	• New Targeted Intervention Service
	• New Corporate Parenting and Permanence Service
	• New Adolescent and Youth Offending Service
• New Assessment and Safeguarding Service	
Apr 2020	Launch of all Digital Enhancements (some will 'go-live' sooner)
	Plans implemented fully: OFSTED recommendations 1 and 3
Jul 2020	Plans fully implemented: OFSTED recommendations 2, 4, 6 and 7

## 5 Consultation

- 5.1 The OFSTED Improvement Plan and Children's Care and Support Improvement Programme was developed in conjunction with key stakeholders across the Council, including the Lead Member for Children's Services. This included colleagues outside of Children's Care and Support who will play a significant role in delivering improved outcomes for our children and young people.
- 5.2 Colleagues from the Barking, Havering and Redbridge Clinical Commissioning Group were integral to responding to the specific OFSTED recommendation concerning the delivery of health provision in the borough.
- 5.3 Findings from the inspection have also been presented to the Local Safeguarding Children Board. Once published the LSCB will be briefed on the part they must play, both now and in future in the form of the new Multi-Agency Safeguarding Partnership Arrangements. The Improvement Programme will also be formally presented to the local Health and Wellbeing Board.

## **6 Financial Implications**

Implications completed by: Katherine Heffernan, Group Manager – Service Finance

- 6.1 This report sets out the proposals for the Children’s Improvement Programme. This programme together with the associated plans and policies and the new Targeted Operating Model is designed to address the Ofsted recommendations and other required improvements for the service.
- 6.2 Children’s Care and Support budgets have been under a high level of financial pressure for a considerable time, factors that are common across London and are not wholly within the Council’s control. The Council’s response as set out in its MTFS has been to fund as far as possible these external pressures whilst requiring the service to develop and implement savings plans and cost containment strategies.
- 6.3 The main areas of pressure are the overall demand pressures on the service and numbers of children requiring assessment and intervention of some kind, increasing complexity and cost of care for the small numbers of children with the highest need, especially the cost of secure accommodation and difficulties in recruiting and retaining social work staff leading to the need for large numbers of more expensive agency staff.
- 6.4 The Target Operating Model and the Improvement Plan will over time contribute to the mitigation and reduction of these cost pressures. However as set out in paragraph 3.10 above, in the short-term pressures will remain in the service – especially in 2019/20 and so will mean a draw down from the Council’s reserves is likely to be required.
- 6.5 It is therefore very important that the service continues to develop and implement savings plans to meet the targets already in the MTFS. The additional costs of the TOM can be funded from within the growth allocated into the budget in 2019/20 however there is a risk that the staffing costs will still exceed the budget as the service currently has some staff above establishment and agency levels are still high. It is therefore important that implementation proceeds as swiftly as possible and that any transitional/double running costs are minimised.
- 6.6 In addition, it should be noted that one off funding for transformation and improvement projects is limited. This programme is a very high priority for the Council and funding of £1.095m will be allocated as set out in paragraph 3.11. This amount should not be exceeded.

## **7 Legal Implications**

Implications completed by: Lindsey Marks; Deputy Head of Legal Community

- 7.1 The Education and Inspections Act 2006 (Inspection of Local Authorities) Regulations 2007 requires, a Local Authority to prepare an action /improvement plan that responds to the findings in the OFSTED ILACS Inspection Report.

7.2 The Children Act 2004 made local authorities responsible for ensuring and overseeing the effective delivery of services for children, working closely with others.

## 8. Other Implications

8.1 Risk Management – there is significant risk in failing to deliver a good Children’s Service. There are considerable risks to the children and young people who we have a duty to safeguard, as well as the risks to the Council of failing to adequately discharge statutory duties. As part of our governance and programme management arrangements, risks are being identified and will be managed through this process.

8.2 Staffing Issues: completed by Jackie Cleary; HR Business Partner

The management team will ensure all staff are given all necessary support and access to our welfare services throughout the process. Regarding staffing issues, corporate governance processes will need to be complied with and all policies and procedures relating to organisational change followed. This involves submitting a report to Workforce Board and approval of the consultation documentation by the Workforce Board Sub Group prior to commencement of formal consultation with staff and unions.

8.3 Safeguarding – safeguarding children is a core focus of the OFSTED Improvement Plan.

8.4 Property/Asset Issues: Staff in Children’s are currently based across 4 sites – Townhall, Roycraft, Mayesbrook Centre, and The Foyer, with most staff based at Roycraft. The increase in staff will have an impact on the office space required. To maximise usage of council assets, capitalise on the benefits of mobile/flexible working and deliver the necessary Ofsted improvements, the following property changes are proposed:

- Children’s staff to be moved out of the Foyer into Roycraft House – it is estimated this will generate a saving on rent for the Foyer of @£30k/year. To accommodate this, we propose to redesign the ground floor and public reception area – we estimate this will cost @£75k (one off).
- Maximise the use of buildings and green space across the Borough to deliver direct work and group work with children, fathers, mothers in areas closer to where they live – this will involve better use of children’s centres, Mayesbrook and/or health owned spaces – work is underway to determine any cost implications.
- Change the positioning of some of the furniture 1st and 3rd floor of Roycraft House – creating a quiet zone/touch down space with no monitors – we estimate this will cost @5k (one off).

These implications have been discussed with the Asset Management Team within My Place who will provide support with spatial design and implementation, with the reconfiguration helping to inform the wider asset review process agreed by CPG in May

## **Public Background Papers Used in the Preparation of this Report**

- London Borough of Barking and Dagenham: Inspection of Children's Social Care Services (OFSTED Letter)

## **List of Appendices**

- Appendix 1: Programme Initiation Document, Children's Improvement Programme



## **Programme Initiation Document**

### **Programme Name: Children's Improvement Programme**

#### **Authors**

Chris Bush; Commissioning Director Children's Care and Support  
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Prepared for Corporate Strategy Group

Version 3.0

June 2019

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## 1 Programme Definition

### 1.1 Background / summary

The model for Children's Care and Support is no longer fit-for-purpose. The entrenched needs of some of our residents, coupled with emerging risks to children are placing an increasing strain on a system that is increasingly unable to meet them. The situation is compounded by a growing, rapidly changing population that, is pushing the existing system close to breaking point.

In February 2019 the service was subject to a two-week OFSTED ILACS Inspection. This inspection judged that the service 'requires improvement' and makes clear and specific recommendations where that improvement is most needed to get to 'good'. In many cases work was already underway to make these improvements, and OFSTED recognised that we were already aware of what needed to improve, that our plans for doing so were sound and - in some cases - evidently making a difference.

To meet these challenges several strands of improvement activity have been carefully compiled. These are described in more detail in section 1.2. These strands of work comprise the Children's Care and Support Improvement Programme. Considerable development of these plans has already been undertaken, with much of this work pre-dating the more recent driver of the OFSTED inspection. As a result, many of the plans outlined within this document have already been presented in other forms to various governance groups e.g. the new Target Operating Model was presented to Corporate Strategy Group in April 2019, and the OFSTED Improvement Plan to Corporate Assurance Group in May 2019. These plans have been co-produced with core staff in Children's Care and Support and represents the shared view of Care and Support of how best to deliver the required improvements.

This PID brings together those plans into a coherent programme of improvement work.

The Children's Care and Support Improvement Programme has been informed by several factors:

- Our population is rapidly changing with increasing numbers of children and young people requiring our help, care and support. There is also growing diversity and we have plans to grow our population further. This provides both opportunities and challenges for our change programme, and we must ensure our services are fit for purpose in our new demographic context.
- Many of the challenges we have been grappling with for some time, including neglect, domestic abuse and poor attainment amongst our care leavers remain unsolved. These issues are complex, intergenerational and pervasive. In last year's school survey over 34% of children and young people felt it was acceptable to hit or be hit by their partner, showing just how entrenched and damaging some of the issues we are trying to solve really are.
- Our residents' survey provides us with lots of rich and valuable information on what they expect from us and we know they are concerned about their children and about safety in the Borough. These are priorities for us and we seek to address residents' worries through this improvement work. We will also do more to understand the views of children and young people living in Barking and Dagenham who do not vote and are not surveyed in this way, through proper consultation and a renewed effort to pay attention to the thoughts and wishes of the children and young people we are working with.
- During our recent inspection OFSTED dove deep into our services and provided detailed feedback on what we need to improve. This augmented the range of external tests that had

already been applied to the system through externally commissioned reviews. The ILACs inspection was both instructive in helping us identify our strengths and weaknesses, and reassuring in that they largely ratified our existing self-evaluation and plans for improvement.

This PID seeks to connect this clear drive for improvement to the financial challenges the Council is facing, addressing the OFSTED improvement plan, the new target operating model (presenting first an improvement structure and then an efficient structure), as well as several policy and strategic requirements. This programme is also closely linked to the emerging Theory of Change and where possible we have referred to this and ensured the programme is aligned to the developing structure and work of the Council, both now and in the future.

### 1.2 Objectives

Put simply, the objective of the programme is to improve the quality and long-term financial sustainability of Children's Care and Support. This PID incorporates all our work in that area under a single plan, with four key strands:

#### 1. Practice Improvement

This will be a detailed plan to deliver practice/service improvement and respond specifically to learning from OFSTED (and what we already knew). It includes improvements across Assessment and Safeguarding, Public Law Outline, LAC, Care Leavers and Permanence, Supervision and Management Oversight, Early Help and the Community Solutions offer, Pre-Birth and Health Services, and understanding and improving on our children's lived experiences.

#### 2. Service Improvement

These will be delivered through over-arching 'strategies' or, in the case of Commissioning, through specific Commissioning Plans distinct by theme. They include additional work on the Performance Management Framework, Quality Assurance Framework, Practice Framework and Practice Standards, the Principal Social Worker Model, Workforce Development and Commissioning Activity and Plans.

#### 3. Service Design

These are the structural and organisational changes that will need to be made in order to directly support the first two strands, specifically, enacting the new Target Operating Models, including Children's Care and Support, Commissioning and Brokerage, Safeguarding and Quality Assurance, the Outcome of the Disability Service review and relevant elements of Community Solutions i.e. Early Help and the Enhanced Local Offer.

#### 4. Strategic Planning

The core strands of the Theory of Change pertinent to Children's Care and Support. Thought must be given as to how we articulate these individually if required. We need plans to address;

- Neglect and Exploitation;
- Early Help and Prevention;
- Domestic Abuse/Youth Violence/Knife Crime;
- Best Start and Best Education;
- Mental Health and Wellbeing;
- Promoting Independence/Increasing Resilience

The size of this programme should not be underestimated, in terms of scope, ambition and financial implications. Each strand of work has a series of key deliverables and outcome measures attached to them. This is a large programme and each of these strands will have key accomplishments associated with them. Detailed plans of activity will need to sit under each strand (or project), some of which are already underway, and some are in their infancy.

### 1.3 Outcomes / Critical Success Factors

This programme must:

- a. Deliver the OFSTED Improvement Plan;
- b. Implement the new Target Operating Model for Children's Care and Support. In Phase I this will be the 'Improvement Structure' (an enhanced structure to stabilise the service and continue the rapid improvements required, most notably those specified by OFSTED);
- c. Move to the Efficient Structure Target Operating Model within the specified timescale (a reduced structure that can be moved to once the service is stable and, crucially, on a more sustainable footing having resolved many of the more acute strategies through the Improvement Structure);
- d. Improve outcomes for children and young people, particularly – but not limited to - those identified in the OFSTED Improvement Plan. The outcomes frameworks – and measures – already used will be both the mechanism for tracking outcomes and the baseline against which they will be measured.
- e. Ensure that the relevant policies, procedures and protocols are in place to support high-quality Social Work practice and provide suitable assurance that services are safe, effective and delivery improved practice.
- f. Develop the requisite Commissioning Plans (to make sure that the correct support and intervention services are in place in the most cost-effective way) and Commissioning Mandates to clarify the roles and responsibilities of internal Council services and how each service block contributes to delivering improved outcomes for our children and young people.
- g. Deliver the above objectives within the financial envelope specified and against the projected financial trajectory up to and including 2021/22 once both are agreed and confirmed.

### 1.4 Lessons Learned

In 2014 Programme SAFE was initiated across Children's Services to drive improvements and contain a large overspend position. In late 2015 this merged into the development of the first Children's Care and Support Target Operating Model under the umbrella of the wider Council Transformation Programme. Whilst there were some notable successes resulting from these two programmes of work, it is also true to say that these endeavours yielded considerable learning.

The appropriate level of suitably skilled resource and strong leadership commitment from across the Council is vital to successfully delivering the improvements required in Children's Care and Support. Whilst using business as usual (BAU) resource wherever possible helps to ensure ownership of the changes and continuity once the programme has ended (as well as helping to contain programme costs) implementing change requires dedicated resource with specialist skills and additional capacity.

Clear lines of governance are equally important and were found to not be sufficiently strong when evaluating the previous programmes. Clarity around the governance, with clear tolerances for each board, will empower decision making and help speed up successful implementation.

We have also learned that taking only a top-down approach to change might get the deliverable produced and immediate saving realised, but only a bottom-up approach will ensure hearts and minds are changed, outcomes achieved, long-term change is sustainable, and benefits are realised. A strong business change function led by the Operational Director and their Operational Management Team will monitor and ensure business readiness for changes being implemented will increase the likelihood of benefits being successfully realised. This function will also ensure the business is ready for any support/programme being closed/removed too early.

The refined Programme Management Office (PMO) monitoring and reporting process helps to focus activity, ensure delivery, and unblock Council-wide issues without stifling bureaucracy.

These lessons have all been considered when shaping this document.

## 2 Programme Planning

### 2.1 Approach

Where there is major change there will be complexity, risk, many interdependencies to manage and conflicting priorities to resolve.

Taking the Managing Successful Programmes (MSP) approach, which provides a structured framework and approach to programme management will help avoid pitfalls such as:

- Insufficient board-level support;
- Weak or ineffective programme leadership;
- Unrealistic expectations of capacity and capability to change;
- Inadequate focus on benefits;
- No picture of future capability;
- Poorly defined vision;
- Failure to change culture; and
- Insufficient engagement of stakeholders.

To develop the Improvement, programme a variety of approaches have been used:

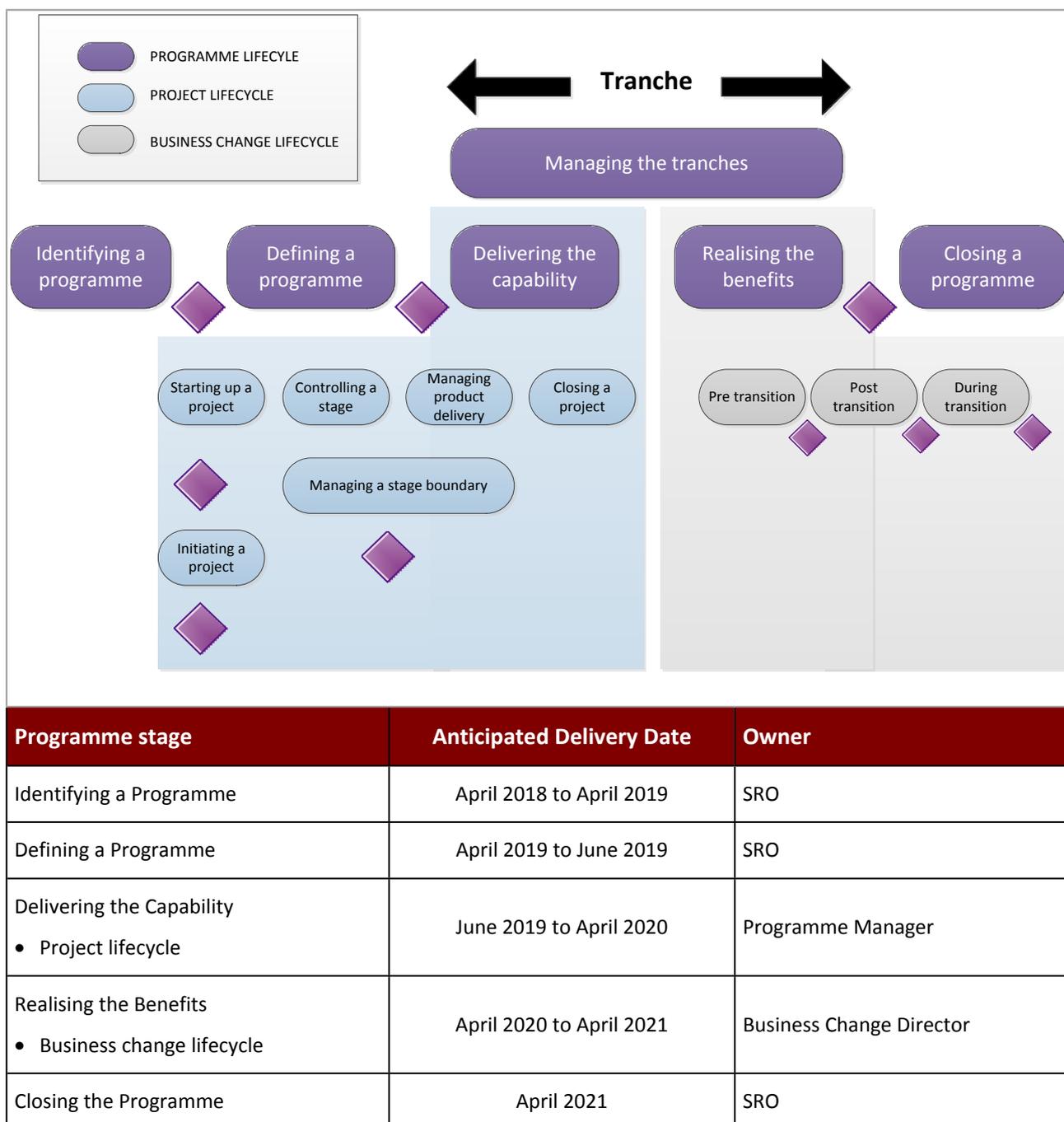
- To understand what is required to change several externally commissioned tests of the system were performed. This allowed a full understanding of the strengths and weaknesses of the system and culminated in the production of the Annual Self Evaluation.
- To supplement this, the OFSTED ILACS Inspection provided both a test of the system itself, as well as of our plans (as set out in the Self Evaluation) to improve the system. This was an important stage in evaluating our planned approach.
- The plans for improvement within this document were developed through a series of facilitated workshops with key stakeholders, particularly those with expertise in frontline practice and, most importantly, those who are/will be delivering services to children and young people.

We will continue to use these methods and expand on our use of various user-led forums to ensure the changes being implemented will meet the needs of our vulnerable residents, of our staff, and of the Council. Most importantly this approach – alongside the Programme Outcomes Framework (1.3) – will tell us if the change is working.

### 2.2 Plan

The detailed programme delivery plan can be accessed through the links in section 5 of this document.

### 2.3 Key Milestones



## 2.4 Key Deliverables and Governance Summary

Programme Plan with 23 key deliverables has been drawn up which helps to clarify the appropriate governance paths (either within the council or with our strategic partners). In order to deliver this improvement programme there are 355 lines in the programme plan.

Level	Unique ID	Deliverable	Owner	Team/Dept.	Start Date	End Date
1	1	<b>TOM2 Design Pack Completed</b>	Sean Girty	Programme Delivery	01/06/2018	18/04/2019
1	16	Operational endorsement	Children's Leadership	Governance	09/04/2019	11/04/2019
1	17	CSG endorsement	CSG	Governance	11/04/2019	18/04/2019
1	18	<b>Programme Initiation Document Completed</b>	Sean Girty	Programme Delivery	30/04/2019	16/05/2019
1	19	CSG endorsement	CSG	Governance	09/05/2019	16/05/2019
1	20	<b>Programme Budget Set Up</b>	Katherine Heffernan	Finance	16/05/2019	01/06/2019
1	21	<b>Programme Governance Set Up</b>	Sean Girty	Programme Delivery	16/05/2019	01/06/2019
1	22	<b>Programme Team Set Up</b>	Sean Girty	Programme Delivery	16/05/2019	01/07/2019
1	23	<b>Stakeholder Analysis and Communications Plan</b>	Sean Girty	Programme Delivery	TBD	TBD
1	24	Endorsed by Children's Improvement Board	Children's Improvement Board	Governance	TBD	TBD
1	25	<b>New Recruitment and Retention Scheme Go Live</b>	Gail Clark	HR	03/06/2019	04/10/2019
1	32	Endorsed by Operations	Children's Leadership	Governance	24/07/2019	24/07/2019
1	33	Endorsed by Workforce Board	Workforce Board	Governance	25/07/2019	25/07/2019
1	34	Union Consultation	Jackie Cleary	Governance	05/08/2019	09/08/2019
1	44	<b>Recruitment Approach and to fill new roles</b>	Gail Clark	HR	29/04/2019	20/06/2019
1	47	Endorsed by Operations	Children's Leadership	Governance	07/06/2019	07/06/2019
1	48	Proposal Endorsed by Workforce Board (or Procurement Board)	Workforce Board or Procurement Board	Governance	20/06/2019	20/06/2019
1	51	<b>Standardised Induction / Mandatory Training / Linked to Probation Period</b>			01/05/2019	22/08/2019
1	54	Endorsed by Operations	Children's Leadership	Governance	02/08/2019	02/08/2019
1	55	Proposal Endorsed by Workforce Board (linked to probation period)	Workforce Board	Governance	22/08/2019	22/08/2019
1	57	<b>Roycraft Ground Floor and Reception refurbished</b>	Andy Bere	Accommodation	01/05/2019	01/11/2019
1	60	Operational endorsement	Children's Leadership	Governance	02/08/2019	02/08/2019
1	61	Union Consultation	Jackie Cleary	Governance	16/08/2019	16/08/2019
1	64	<b>Children's Management Posts recruited to (HoS to CSW)</b>	April Bald	Operations	20/05/2019	01/03/2020
1	67	Endorsed by Children's Improvement Board	Children's Improvement Board	Governance	11/07/2019	11/07/2019
1	68	Endorsed by Workforce Board	Workforce Board	Governance	18/07/2019	18/07/2019
1	69	Union Consultation	Jackie Cleary	Governance	22/07/2019	26/07/2019
1	76	If enacted, Sounding Board ends. 2 weeks	Jackie Cleary	Governance	TBD	TBD
1	89	<b>Assessment &amp; Safeguarding Service (inc Pre-birth) Go Live</b>	Carolyn Greenaway	Operations	03/06/2019	01/04/2020
1	94	Endorsed by Operations	Children's Leadership	Governance	06/09/2019	06/09/2019
1	95	Endorsed by Children's Improvement Board	Children's Improvement Board	Governance	17/09/2019	17/09/2019
1	104	If enacted, Sounding Board ends. 2 weeks	Jackie Cleary	Governance	TBD	TBD
1	121	Decision to go live/not go live	Children's Leadership	Governance	07/02/2020	07/02/2020
1	124	<b>Adolescent &amp; Youth Offending Service (inc missing &amp; exploitation) Go Live</b>	Angie Fuller	Operations	03/06/2019	01/04/2020
1	128	Endorsed by Operations	Children's Leadership	Governance	06/09/2019	06/09/2019
1	129	Endorsed by Children's Improvement Board	Children's Improvement Board	Governance		
1	139	If enacted, Sounding Board ends. 2 weeks	Jackie Cleary	Governance	TBD	TBD
1	159	Decision to go live/not go live	Children's Leadership	Governance	07/02/2020	07/02/2020
1	162	<b>Corporate Parenting and Permanent Service (inc RAA) Go Live</b>	Joanne Tarbut	Operations	01/07/2018	06/09/2019
1	166	Endorsed by Operations	Children's Leadership	Governance	06/09/2019	06/09/2019
1	167	Endorsed by Children's Improvement Board	Children's Improvement Board	Governance		
1	185	If enacted, Sounding Board ends. 2 weeks	Jackie Cleary	Governance	TBD	TBD
1	204	Decision to go live/not go live	Children's Leadership	Governance	07/02/2020	07/02/2020
1	207	<b>Targeted Intervention Hub Go Live</b>	TBD	Operations	01/11/2018	01/08/2020
1	217	Endorsed by Operations - Childrens	Children's Leadership	Governance	04/10/2019	04/10/2019
1	218	Endorsed by Operations - Com Sol	Community Solutions Board	Governance	11/10/2019	11/10/2019
1	219	CSG endorsement	CSG	Governance	18/10/2019	18/10/2019
1	229	If enacted, Sounding Board ends. 2 weeks	Jackie Cleary	Governance	TBD	TBD
1	246	Decision to go live/not go live	Children's Leadership	Governance	10/07/2020	10/07/2020
1	249	<b>Service Development / BSO Go Live</b>	Sean Girty	Programme Delivery	01/01/2016	02/09/2019
1	250	Endorsed by SD&I (under Anne Bristow)	SD&I	Governance	01/01/2018	01/01/2018
1	251	Endorsed by Workforce Board	Workforce Board	Governance	01/01/2018	01/01/2018
1	270	<b>Brokerage and Placement Go Live</b>	Heather Storey	Commissioning	01/01/2019	02/09/2019
1	272	Endorsed by Operations	Children's Leadership	Governance	09/08/2019	09/08/2019
1	273	Endorsed by Workforce Board	Workforce Board	Governance	23/08/2019	23/08/2019
1	274	<b>Digital Enhancements Go Live</b>	Sean Girty	Programme Delivery	01/09/2019	01/04/2020
1	280	Endorsed by Operations	Children's Leadership	Governance	TBD	TBD
1	281	Endorsed by Technical Design Authority	Technical Design Authority	Governance	TBD	TBD
1	282	<b>Ensure that the relevant policies, procedures and protocols are in place to support high-quality Social Work practice and provide suitable assurance that services are safe, effective and delivery improved practice.</b>	April Bald	Operations	01/01/2019	01/04/2020
1	297	Endorsed by Children's Improvement Board	Children's Improvement Board	Governance	01/12/2019	01/04/2020
1	298	Endorsed by Health & Wellbeing Board / Safeguarding Board	Health & Wellbeing Board / Safeguarding Board	Governance	TBD	TBD
1	299	Endorsed by Community Safety Partnership	Community Safety Partnership	Governance	TBD	TBD
1	300	<b>Develop the requisite Commissioning Plans (to make sure that the correct support and intervention services are in place in the most cost-effective way) and Commissioning Mandates to clarify the roles and responsibilities of internal Council services and how each service block contributes to delivering improved outcomes for our children and young people.</b>	Chris Bush	Commissioning	01/05/2019	01/11/2020
1	311	Endorsed by Children's Improvement Board	Children's Improvement Board	Governance	TBD	TBD
1	312	Endorsed by Council's Procurement Board	Procurement Board	Governance	TBD	TBD
1	313	Endorsed by Integrated Care Partnership Board	Integrated Care Partnership Board	Governance	TBD	TBD
1	314	Endorsed by Health & Wellbeing Board / Safeguarding Board	Health & Wellbeing Board / Safeguarding Board	Governance	TBD	TBD
1	315	Endorsed by Community Safety Partnership	Community Safety Partnership	Governance	TBD	TBD
1	316	<b>Early Help Improvement</b>	Mark Fowler	Operations - Community Solutions	01/05/2019	01/04/2020
1	322	Endorsed by Children's Improvement Board	Children's Improvement Board	Governance	TBD	TBD
1	323	Endorsed by Health & Wellbeing Board / Safeguarding Board	Health & Wellbeing Board / Safeguarding Board	Governance	TBD	TBD
1	324	<b>Health Improvement</b>	Elaine Allegretti and Jacqui Himbrey	DCS and CCG	01/02/2019	01/11/2019
1	332	Endorsed by Children's Improvement Board	Children's Improvement Board	Governance	TBD	TBD
1	333	Endorsed by Health & Wellbeing Board / Safeguarding Board	Health & Wellbeing Board / Safeguarding Board	Governance	TBD	TBD

### 2.5 Dependencies

**Dependency 1:** Success of Theory of Change in addressing issues of neglect, mental health and homelessness and reducing demand that is elsewhere in the system (though the Target Operating Model does not make any assumptions about a reduction in demand before 2021/22, it does assume that demand can be contained to a large extent).

**Dependency 2:** Success of partners (Community Solutions, Health, Education and Inclusive Growth) to create effective pathways into housing and employment for our vulnerable children and their families, as well as supporting them to address issues of debt.

**Dependency 3:** Success of partners (Youth Offending, Police, Integrated Gangs Unit, Courts, Community Safety) on crime, desistance of crime and tackling repeat offenders.

**Dependency 4:** Success of Mental Health and community provision on substance misuse.

**Dependency 5:** The Core Transformation programme doesn't jeopardise our transformation by removing/reducing capacity of Finance/HR resources which are required for this programme.

**Dependency 6:** Decisions on Building and Asset Rationalisation, specifically the redesign of Roycraft ground floor reception and office space, allowing those social work staff supporting children in care and care leavers to be moved from The Foyer in Roycraft, and the relocation of those staff in the targeted intervention hub out in the community (e.g. remodelling Mayesbrook and making better use of other community assets)

**Dependency 7:** Decisions on growing the Borough via the inclusive growth strategy will likely mean our younger population will continue to grow in the borough. The funding necessary to support this cohort will need to continually be reviewed by CSG and Strategic Partners (particularly the impact on early help, schools, social care etc)

**Dependency 8:** Decisions on recruitment and retention scheme and other USPs set out in the workforce strategy

**Dependency 9:** Early help must now impact the demand for statutory services, by preventing families from needing social care intervention and by providing timely interventions that ensure sustainable change in outcomes for those families as per OFSTED finding.

### 2.6 Constraints / Mandatories

- Programme spend must stay within budget (Section 3) and not exceed the contingency. Delivering in accordance with the timescales set out in the programme plan and with the Programme resource specified (utilising BAU resource wherever possible) will help.
- OFSTED set the quality standards for delivery of statutory children's services, the programme must support the delivery of these standards.
- Applying qualified social work expertise in early help to ensure risk identification, application of thresholds and safety planning is well embedded.
- We expect a follow-up inspection by OFSTED within 2-years (in accordance with the Standard Inspection cycle for Council's receiving a 'Requires Improvement' judgement).

### 2.7 Assumptions

**Assumption 1:** All assumptions used in the demand and workforce modelling are linked to in section 5. If demand exceeds the estimates, then the staffing numbers will be too low and further investment will be required to achieve OFSTED endorsed caseloads.

**Assumption 2:** All external funding sources required to fund the positions in the TOM can be secured.

**Assumption 3:** All resources (revenue and capital) required for the programme, including BAU resource, as detailed in section 4.1 will be made available. This includes enough flexibility in the MTFP to allow for the implementation of the Target Operating Model Improvement Structure.

### 2.8 Exclusions

**Exclusion 1:** Changes to Health provision (except for those changes that are specified in the OFSTED Improvement Plan and where Health colleagues have subscribed to the delivery to be monitored through the Children's Improvement Board).

**Exclusion 2:** Changes to Education provision (except for Youth at Risk Matrix workers based in schools).

**Exclusion 3:** Changes to Police provision (except for Youth Offending Service based officers and the Gangs Unit).

**Exclusion 4:** Wider changes to Community Solutions that are not as specified in the Target Operating Model and the OFSTED Improvement Plan (though the assumption is made that the requirements set out in the dependencies are met).

**Exclusion 5:** Changes to Adults/Disability Services. This will be delivered by another programme.

**Exclusion 6:** Changes to Core Services (Commissioning, Finance, HR, IT etc). This will be delivered by another programme.

## 3 Finance - Budget, Resource requirements, MTFS contribution, Costs, Savings Required

The financial implications of the programme are two-fold.

The implementation of the new Target Operating Model will place demands upon the Council's General Fund, demands that are not currently accounted for in the Medium-Term Financial Plan. The programme itself will incur one-off, time-limited costs to support implementation.

### Costs: Revenue

The first phase the proposed Target Operating Model (the 'Improvement Structure) places an additional pressure of £1.9m on the Children's Care and Support budget. This is offset by increased funding for 2018/19 of £2.56m from the Social Care Grant and MTFP growth funding, but this is tempered by a savings target of £1.12m. For 2019/20 there is growth of £1.1m identified in the MTFP, but pre-existing savings targets of £1.46m. There are already savings plans in place totalling £2.45m across the two years, and the delivery of these will be monitored through this programme. In

the second phase of delivery – at the end of 2020/21, for impact in 2021/22 - a reduction in expenditure of £1.15m is planned as the 'Efficient Structure' of the Care and Support Operating Model is implemented.

The implications for the Children's Care and Support budget over the next three financial years is outline at Appendix B. Given the inherent pressure of circa. £5m, the true cost must be considered within this context: the implications of this are a pressure in Children's Care and Support of £4.2m in 2019/20; £4.9m in 2020/21 and £3.7m in 2021/22. It should be noted that were the Social Care Grant (of £1.56m) from government to continue, it would reduce this final figure to a pressure of £2.2m in 2021/22.

### **Sources of Funding: Revenue**

A breakdown of the sources of funding during both phases of the implementation are detailed at Appendix C.

### **Costs: Capital**

£1.095m (anticipated costs of the programme). These are detailed in section 4.1.

### **Comments from Katherine Heffernan; Head of Service - Finance**

The proposed TOM is projected to cost just over £18m in the Improvement Phase. This includes the full cost of staffing based on the 2018/19 pay scales plus some assumptions for agency staffing and the proposed reward scheme. The use of 2018/19 pay scales is in line with the council wide decision not to fund the 2019/20 pay award: for this service a 2% pay rise is estimated to cost £0.36m which would be in addition to the £18m cost. (There is some mitigation in that costings are top of range and assume pension fund membership).

The modelling of the TOM has been carried out based on the service's own projections of likely demand for services in 2019/20. Due to time constraints the Finance service has not had an opportunity to review these calculations.

The costings also include an allowance for 15% of Social Workers and Senior Social Workers posts to be filled by agency staff at a premium of £30k and a reward scheme based on £5k golden handshake and up to 6% reward payment. The total allowance for these two elements is £1.181m. It should be noted that the current level of agency staff is significantly above 15% and that the design of the reward scheme has not been finalised. In addition, it is proposed that staff on the current recruitment and retention scheme will be offered the option to move across to the new scheme but may not chose to do so. The current scheme is paid on a one-off retention award of £15k in the fifth year of service – if all staff in post remain on the scheme then this will cost in the region of £0.9m in 2020/21.

The modelling assumes that the TOM will be part funded by external partners such as the Police and NHS. It is understood that this has been agreed in principle, but it is very important that this be confirmed and formalised. It is also proposed that other existing funding within other Council services be repurposed to support the TOM.

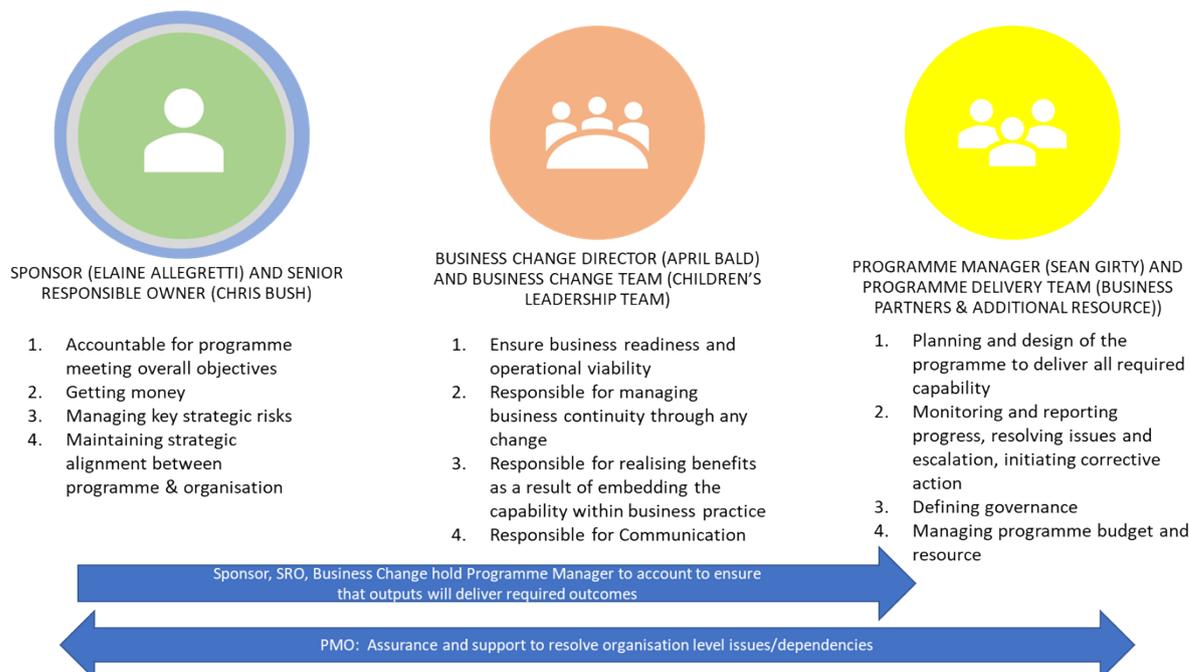
It should be noted that the main services in question, Community Solutions and Public Health Grant, have their own financial and demand-led pressures and both have significant savings targets for 2019/20 so there are some risks in this proposal.

The expected cost for Children’s Care and Support is £14.2m in 2019/20 which is £1.9m above the 2018/19 staffing budget. This can be funded within the 2019/20 budget assuming full use of the Social Care grant (£1.5m) and up to £0.4m of the £1m base budget growth allowed in the MTFs.

## 4 Governance and Control

### 4.1 Programme Organisation and Resourcing

#### Roles and Responsibilities



In order to support the delivery of the improvement plan, this PID proposes the release of £1.095 in capital funding. This funding will enable the project team to deliver the full programme of improvement, including its asks of other areas of the Council, such as Finance, HR, systems and Communications. This budget should be held by the PMO and delegated as posts are recruited to and/or work is delivered.

Job Title	Name/Contract Type/Duration		Notes
Improvement Programme Manager	Consultant; 14 months	Temporary Additional Resource	To programme manage the delivery of the TOM and Ofsted Improvement. Separating out the transformation activity allows Children’s to restructure the BAU service development management team and realise savings.
Finance Business Partner	Florence Fadahunsi	BAU Resource	
Finance Project Accountant	TBD, fixed term 12 months	Temporary Additional Resource	To work across improvement activity in Adults’, Children’s and Disabilities (1/3 of 1 post for 1-year, total cost £75k). Aligned to Florence Fadahunsi to give extra finance capacity.
HR Business Partner	Jackie Cleary	BAU Resource	
Recruitment and Resourcing Manager	Rosemary Oduntan-Oke	BAU Resource	

## Appendix 1

HR Project Support	TBD; consultant 12 months	Temporary Additional Resource	Shared resource to support both the HR Business Partner (Jackie Cleary) and Recruitment and Resourcing Manger (Rosemary Oduntan-Oke) to give extra HR and recruitment capacity
Customer Experience and Digital Business Analyst	Maxine Brown (TBD)	BAU Resource	
Liquid Logic Systems Developer	TBD; consultant 6 months	Temporary Additional Resource	Aligned to the BAU liquid logic systems team (Dan Monahan) to give extra IT development capacity as liquid logic is a workflow system and process and system set up will need to be amended according to the new TOM
Liquid Logic and Digital Trainer	TBD; consultant 6 months	Temporary Additional Resource	Aligned to the BAU liquid logic systems team (Dan Monahan) to provide dedicated training support
Business Objects Report Writer	TBD; consultant 3 months	Temporary Additional Resource	Aligned to the BAU performance & intelligence team (Wassim Fattahi-Negro) to re-design appropriate dashboards based on the new TOM
Service Improvement Manager (with social work qualification)	TBD; consultant 12 months	Temporary Additional Resource	Overseeing the improvement work in early help and applying qualified social work expertise to ensure risk identification, application of thresholds and safety planning is well embedded. Based in community solutions leadership team to give additional specialist social care leadership capacity. Also reports into the Business Change Director for the Programme.
Programme Support / Jr Project Manager	TBD; consultant 12 months	Temporary Additional Resource	To support the reporting, progress monitoring, and deliver small scale project work as required by the TOM and Ofsted improvement
Communications and Campaigns	Emily Blackshaw (Sam Hodges)	BAU Resource	To support dedicated additional recruitment drive to fill new posts with permanent staff (15k for advertising, social media, bespoke recruitment events; £15k for additional communications officer capacity - backfill)
IT Development, Digital and NWOW	Paul Ingram (Ashley Hanson)	BAU Resource	To support scheduling/resource planning/booking functions in targeted intervention hub; web/app development for our offer to care leavers and trail of interpreter apps. Subject to business case sign off by technical design authority
Commissioning Manager	TBD; fixed term contract	Temporary Additional Resource	To support the development of new commissioning plans around the redefined service areas, and ensure that value for money is embedded, including through the development of the Brokerage model.
Asset / Buildings Refurbishment	Andy Bere (Michael McPherson)	BAU Resource	To support the redesign of ground floor and reception of Roycraft; and redesign of Mayesbrook for the targeted intervention hub. Subject to business case sign off by CSG.
		£953k	CSG endorsed budget, delegated to Programme Sponsor(s) and onwards to Programme Manager to manage within tolerances set out above
		£143k	Use of any contingency is subject to business case sign off by CSG
		£1.095	CSG endorsed budget, delegated to Children's Improvement Board to oversee

4.2 Change Control

Children’s Improvement Board (as delegated by CSG-plus) will be accountable for delivery, realising benefits, and controlling both quality and costs as per PID. Any change request that have a fundamental impact on either time or cost must be escalated to CSG-plus for a decision.

4.3 Programme Controls

Programme Control	Chair	Frequency	Reporting	PMO Assurance (PDWG Process)
Children’s Improvement Programme Team Meeting	Programme Manager	Monthly (before 1 <sup>st</sup> Thursday)	Input: Project/workstream highlight reports Output: Draft Programme & PMO dashboard	Chair Head of PMO (Richard Caton) Frequency Monthly
Children’s Leadership (Business Change) Meeting	Business Change Manager (April Bald)	Monthly (before 2 <sup>nd</sup> Thursday)	Input: Draft Programme & PMO dashboard Output: Draft Vital signs & outcome dashboard including budget monitoring	Attendees and Inputs <ul style="list-style-type: none"> <li>Programme Manager responsible for Programme &amp; PMO Dashboard</li> <li>Finance Lead responsible for budget and savings monitoring</li> <li>SRO/Commissioning Lead responsible for commissioning led savings update</li> <li>Business Change Manager responsible for Vital signs &amp; outcomes dashboard</li> </ul>
Children’s Improvement Board	Senior Responsible Owner (Elaine Allegretti/Chris Bush)	Monthly (before 2 <sup>nd</sup> Thursday)	Input: Draft Programme & PMO dashboard Input: Draft Vital signs & outcome dashboard including budget monitoring Output: Final Programme & PMO dashboard + Final Vital signs & outcome dashboard including budget monitoring	Reporting and Output <ul style="list-style-type: none"> <li>Report to CSG highlighting any concerns and helping to resolve any organisation wide blockages</li> </ul>
Corporate Strategy Group (Plus) / Corporate Performance Group	Chris Naylor/ Claire Symonds	Monthly (3 <sup>rd</sup> Thursday)	Input: Final Programme & PMO dashboard + Final Vital signs & outcome dashboard including budget monitoring	

## 4.4 Risks

Risk	Mitigating Actions		Owner	
	Likelihood	Impact		
OFSTED return visit potentially resulting in inadequate judgement and reputational damage	M	H	<ul style="list-style-type: none"> <li>The OFSTED Improvement Plan is a published document and contains much of our commitment to improvement.</li> <li>Regularly revisit the SEF and outcomes frameworks</li> </ul>	Elaine Allegretti
Children's outcomes deteriorate	L	H	<ul style="list-style-type: none"> <li>The work outlined here is our plan to improve outcomes against a backdrop of diminishing funding. If this work is not undertaken, there is a risk that our children and young people will be unsafe.</li> <li>Monitor via Vital Signs and performance dashboards</li> </ul>	Elaine Allegretti
Demand could rise	H	H	<ul style="list-style-type: none"> <li>Monitor via Vital Signs and performance dashboards</li> <li>Implement Targeted Intervention Hub</li> <li>Implement improvement work in early help</li> <li>Theory of change</li> </ul>	Chris Bush
Permanent staff could leave	M	H	<ul style="list-style-type: none"> <li>Monitor via Vital Signs / Workforce Dashboard</li> <li>Implement workforce strategy USPs and new recruitment &amp; retention scheme</li> </ul>	April Bald & Gail Clark
Community solutions early help offer might not reduce demand for social care	M	H	<ul style="list-style-type: none"> <li>Monitor via Vital Signs and performance dashboards</li> <li>Improvement work in early help and MASH, applying qualified social work expertise to ensure risk identification, application of thresholds and safety planning is well embedded.</li> </ul>	Mark Fowler & April Bald
Funding needed from partners for the TOM might not be secured	M	H	<ul style="list-style-type: none"> <li>Develop theory of change and lobby partners and exert political pressure accordingly</li> </ul>	Chris Bush, Chris Naylor & Darren Rodwell
Appropriate accommodation/homes are not made available for homeless 16 & 17 yr olds, vulnerable families and care	M	H	<ul style="list-style-type: none"> <li>Vulnerable persons panel and process and new 16/17 yr old protocol being developed</li> <li>Forward planning of demand for accommodation for this cohort</li> <li>Variety of appropriate accommodation made available</li> </ul>	Chris Bush & Mark Fowler & Robert Overall & April Bald

leavers as planned			through commissioning my place/reside, supported accommodation, private rental, semi-independent, staying put in fostering arrangements	
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#### 4.5 Issues

Issue	Description & Impact	Actions	Owner
Existing Liquid logic systems team is not adequately resourced to make changes required and support operational staff with floor walking / training support		Programme team to include additional capacity for systems team	Chris Bush
Existing Recruitment and retention scheme is too expensive and HR are not adequately resourced to develop the new scheme	Additional posts required to meet demand and keep caseloads down will add additional cost pressures due to the existing priority recruitment scheme in place	Programme team to include additional capacity for HR to redesign scheme	Gail Clark
Culture of poor management practice and bullying is leading to difficulties in recruiting and retaining permanent staff	Permanent staff will continue to leave, and we will be forced to rely on expensive agency staff	Bullying managers have been exited from the organisation Changes to IJOC managers meetings to help drive improvements in behaviours/set expectations Staff forums so staff have outlets other than traditional line management	April Bald
Caseloads are too high	Permanent staff will continue to leave, and we will be forced to rely on expensive agency staff	Demand and workforce modelling to right size the operating model. Monitor via vital signs.  Secure funding, increase establishment accordingly and recruit to new posts	April Bald

## 5 Appendices

**Appendix A:** Governance arrangements for the Children's Improvement Programme

**Appendix B:** Children's Care and Support budget trajectory: 2019/20 – 2021/22

**Appendix C: Costs of the Target Operating Model (before and after)****Links to Background Documents**

1. Target Operating Model 2.0 and Workforce Development Strategy (click [here](#))
2. Children's Care and Support Workforce Development Strategy – Full Version (click [here](#))
3. Proposed staffing structures (Improvement and Efficient) of new TOM\* (click [here](#))
4. Financial Modelling Data\* (click [here](#))
5. Full Implementation Plan (click [here](#))

**6 Document Control****6.1 Revision History**

Version	Date	Amended By	Summary of changes
1.0	01/05/19	Sean Girty	Document initiated and developed
1.1	03/05/19	Heather Storey	Document developed
1.2	08/05/19	Chris Bush	Document reviewed and developed
2	08/05/19	Chris Bush	Document circulated for comment
3	12/06/19	Sean Girty	Amended in response to May CSG feedback

**6.2 Document Approval**

This document requires the following approvals. ('Approved' assumes review undertaken prior to approval).

Version	Date	Name	Title / Role	Approval Status (Pending/ Approved)
2.1	09/05/19	PRMG	DCS Management Group	Approved
2.2	16/05/19	CSG	Corporate Strategy Group	Pending subject to requested amendments/clarification
3	20/06/19	CSG	Corporate Strategy Group	Pending

**6.3 Document Reviews**

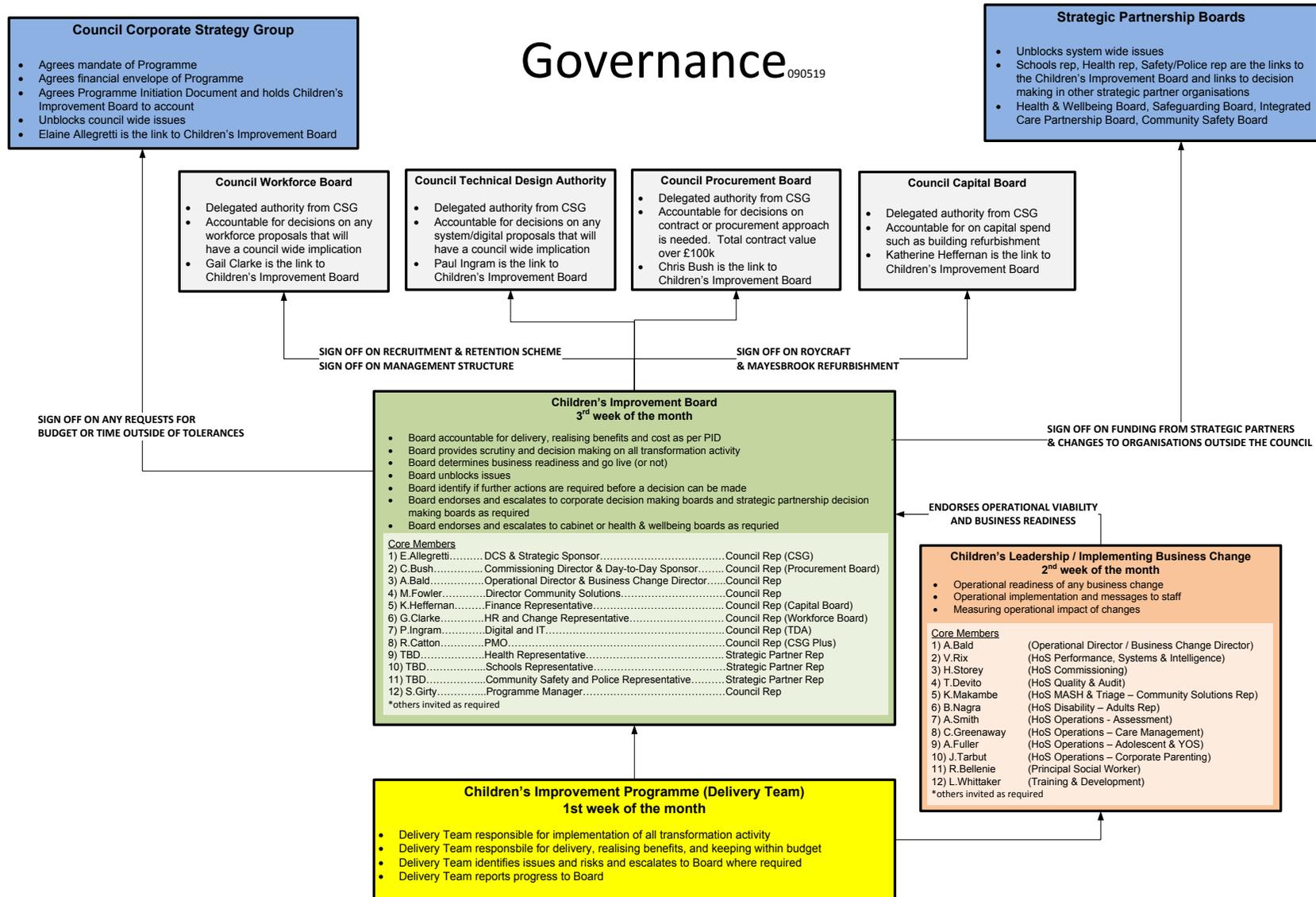
This document has been reviewed by the following people, in addition to those listed above.

Version	Date	Name	Title / Role
1.2	08/05/2019	Richard Caton	Head of the PMO

## Appendix 1

		Katherine Heffernan	Head of Finance
1.2	08/05/2019	Elaine Allegretti April Bald	Director, People and Resilience Operational Director, Children's Care & Support
3	12/06/19	Richard Caton Katherine Heffernan Elaine Allegretti April Bald Chris Bush	Head of the PMO Head of Finance Director, People & Resilience Operational Director, Children's Care & Support Commissioning Director, Children's Care & Support

Appendix A: Governance arrangements for the Children’s Improvement Programme



## Appendix B: Children's Care and Support budget trajectory: 2019/20 – 2021/22

Children's Care and Support Budget 2019/20			
Budget Movement	£	Cost/Savings	£
<b>18/19 Budget</b>	<b>£32.9m</b>	<b>18/19 Out-turn</b>	<b>£38.0m</b>
Transformation Savings	-£1.12m	TOM Cost Implications	+£1.9m
MTFS Growth Funding	+£1m	Existing Savings Plans	-£1.2m
Social Care Grant	+£1.56m	Projected Growth	+£922k
<b>19/20 Budget</b>	<b>£34.4m</b>	<b>19/20 Out-turn</b>	<b>£39.6m</b>
<b>2019/20 Projected Variance</b>		<b>£5.2m</b>	

Children's Care and Support Budget 2020/21			
Budget Movement	£	Cost/Savings	£
<b>19/20 Budget</b>	<b>£34.4m</b>	<b>19/20 Out-turn</b>	<b>£39.6m</b>
Transformation Savings	-£1.46m	TOM Cost Implications	
MTFS Growth Funding	+£4.56m	Existing Savings Plans	-£1.25m
Social Care Grant	-£1.56m	Projected Growth	+£600k
<b>20/21 Budget</b>	<b>£35.9m</b>	<b>20/21 Out-turn</b>	<b>£38.9m</b>
<b>2020/21 Projected Variance</b>		<b>£3.0m</b>	

Children's Care and Support Budget 2021/22			
Budget Movement	£	Cost/Savings	£
<b>20/21 Budget</b>	<b>£35.9m</b>	<b>20/21 Out-turn</b>	<b>£38.9m</b>
		Efficient TOM Structure	-£1.15m
		Projected Growth	+£600k
<b>21/22 Budget</b>	<b>£34.4m</b>	<b>21/22 Out-turn</b>	<b>£38.4m</b>
<b>2021/22 Projected Variance</b>		<b>£2.4m</b>	

**Additional Cost Implications**

1. Increase in placement costs (particularly LAC and Care Leavers)
2. Costs of implications of implementation e.g. HR and Finance
3. Increased capacity required in Safeguarding and Quality Assurance and Commissioning e.g. Independent Reviewing Officers and Commissioning
4. Costs to other parts of the Council e.g. the Enhanced Local Offer to Care Leavers or and improved Early Help Offer

\*apart from point 1, these will not impact on the Children's Care and Support budget.

## Appendix C: Costs of the Target Operating Model (before and after)

The following tables set-out the changes in the financial model between the existing structure (before) and the two stages of the future Target Operating Model. The first is the Improvement Structure i.e. what are the costs of the next version of the proposed structure required to place the service on a stable footing and drive the rapid improvements as outlined in, for example, the OFSTED Improvement Plan. The second (over the page) is the Efficient Structure i.e. what are the costs of the ultimate version of the structure once the service has stabilised, performing better and where the Improvement Structure has addressed some of the demand within the system itself (distinct from demand outside of the system). All projections are based upon demand growth forecasts and adhere to our caseload targets for the service.

Before	Budget Area	Current FTE	Cost of Current FTE	True Cost of Current FTE	Care and Support Funding	Other Council Funding	External Funding
		All Children's Care and Support	288	£14,507,300	£15,442,300	£12,312,400	£602,800

After (Improvement Structure)	Budget Area	Proposed FTE	Cost of Proposed FTE	True Cost of Proposed FTE	Care and Support Funding	Other Council Funding	External Funding
	Adolescent & Youth Offending Service	68	£3,137,400	£3,179,400	£702,600	£331,700	£2,145,100
	Assessment & Safeguarding (including pre-birth)	132	£6,719,800	£7,553,300	£7,338,900	£110,400	£104,000
	Senior Leadership Team	2	£213,200	£213,200	£213,200	£0	£0
	Corporate Parenting & Permanence	64	£3,273,700	£3,552,700	£3,440,700	£0	£112,000
	Service Development & Transformation Service	27	£1,034,282	£1,034,282	£981,682	£0	£52,600
	Targeted Intervention Service	56	£2,481,200	£2,508,200	£1,522,000	£947,300	£38,900
	<b>Total</b>	<b>349</b>	<b>£16,859,582</b>	<b>£18,041,082</b>	<b>£14,199,082</b>	<b>£1,389,400</b>	<b>£2,452,600</b>

## Appendix C: Costs of the Target Operating Model (before and after) (cont.)

Budget Area	Proposed FTE	Cost of Proposed FTE	True Cost of Proposed FTE	Care and Support Funding	Other Council Funding	External Funding
Adolescent & Youth Offending Service	56	£2,551,200	£2,593,200	£490,700	£329,700	£1,772,800
Assessment & Safeguarding (including pre-birth)	123	£6,151,700	£6,985,200	£6,770,800	£110,400	£104,000
Senior Leadership Team	2	£213,200	£213,200	£213,200	£0	£0
Corporate Parenting & Permanence	64	£3,403,000	£3,682,000	£3,570,000	£0	£112,000
Service Development & Transformation Service	19	£677,377	£677,377	£624,737	£0	£52,600
Targeted Intervention Service	66	£2,865,400	£2,892,400	£1,388,900	£947,300	£556,200
<b>Total</b>	<b>330</b>	<b>£15,861,837</b>	<b>£17,043,337</b>	<b>£13,058,337</b>	<b>£1,387,400</b>	<b>£2,597,600</b>

After (Efficient Structure)

1. All proposed FTE figures have been arrived at using demand projections and tied back to caseload guarantees and management-to-staff ratios (as set out in the Workforce Development Strategy).
2. The costings for the two structures above are reflected as actual cost and 'True Cost'. The initial 'Cost' figures are essentially a description of the before and after base budgets, equivalent to the number (and type) of FTE required. The 'True Cost' builds upon this to include: a) An Agency Premium that assumes that 15% of the Social Workforce will at any given time be Agency Workers (the target that we have been working towards); b) The recruitment payments of £5k to new Social Workers and Managers that join the Council; and c) the retention payments made to Social Workers and Managers in all services. The 'True Cost' of the new Care and Support funding stream includes the agency premiums – essentially right-sizing the budget once and for all.
3. 'Other Council Funding' includes sources of funding and/or resources provided from other parts of the Council. This predominantly takes the form of funding streams from the Public Health Grant and, in the case of Community Solutions, workers employed by the service that it is proposed become part of the new Target Operating Model.
4. External Funding includes a combination of a) Grant Funding (Home Office, MOPAC, Youth Justice Board and DfE) or where partners (the Police and the CCG/Health) are/will contributing/contribute professionals (e.g. Health Visitors and Midwives as part of the structure).

**CABINET****16 July 2019**

<b>Title:</b> Gascoigne West and Sebastian Court Development Proposals – Use of CPO and Appropriation Powers	
<b>Report of the Cabinet Member for Regeneration and Social Housing</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> Gascoigne	<b>Key Decision:</b> Yes
<b>Report Author:</b> Mark Stallard – Senior Development Manager, BeFirst	<b>Contact Details:</b> Tel: 0208 227 5054 E-mail: <a href="mailto:mark.stallard@befirst.london">mark.stallard@befirst.london</a>
<b>Accountable Strategic Director:</b> Graeme Cook, Director of Inclusive Growth	
<b>Summary</b>	
<p>Cabinet approved the use of compulsory purchase powers in regard to a number of estate renewal schemes in January 2015. In the case of the Gascoigne West Estate this was subject to confirmation of Housing Zone funding, which was subsequently granted in 2017. This report seeks to provide a specific update in regard to the redevelopment of part of the Gascoigne West Estate ( Phase 2 ) and seeks confirmation of the approval of the use of the Council’s compulsory purchase powers to acquire those interests in land and property which fall outside of the Council’s ownership and which are required in order to bring forward the redevelopment of the estate.</p> <p>Outline Planning Permission (ref: 17/00977/OUT) was granted by the Council in December 2018 for the demolition of existing buildings and structures on part of the Gascoigne West Estate and the construction of up to 850 new homes with accompanying commercial and community floor space, improved public realm and landscaping (“the Consented scheme”). Appendix 1 shows the red line of the Outline Planning Permission. The proposed CPO would apply to Phases 2 (as marked up on Appendix 1).</p> <p>Concurrent to the Planning Application, the Council has been trying to secure through negotiation the purchase of leasehold interests in flats originally sold via the Right to Buy process. Good progress has been made in this regard including all of Phase 1, but we have now reached the stage where pursuing a CPO seems the only viable strategy to achieve vacant possession on target. Accordingly, it is considered that it is an appropriate time to progress the use of the Council’s compulsory purchase powers.</p> <p>In addition, this report seeks approval for the use of appropriation powers for Gascoigne West Phase 1 and Sebastian Ct. This is to enable transfer of land and address third party rights issues.</p>	

## Recommendations

The Cabinet is recommended to:

- (i) Agree, subject to consideration of the matters set out in the report, to make a Compulsory Purchase Order (“CPO” / “the Order”) pursuant to Section 17 Housing Act 1985 and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 for the acquisition of land and new rights in respect of the area identified as Phase 2 in Appendix 1 to the report, "draft CPO Plan" and the Schedule, to facilitate delivery of the Gascoigne West Estate regeneration proposals set out in the report;
- (ii) Delegate authority to the Director of Inclusive Growth to approve the Statement of Reasons supporting the CPO;
- (iii) Delegate authority to the Director of Law and Governance, in consultation with the Director of Inclusive Growth, to:
  - (a) agree minor amendments to the CPO Plan and CPO Schedule before the making of the CPO if required;
  - (b) take all steps to secure the making, confirmation and implementation of the CPO including the publication and service of all notices and the promotion of the Council’s case at any public inquiry;
  - (c) negotiate, agree terms and enter into agreements with interested parties including agreements for the withdrawal of blight notices and/or the withdrawal of objections to the Order and/or undertakings not to enforce the Order on specified terms, including (but not limited to) where appropriate seeking the exclusion of land or rights from the Order, making provision for the payment of compensation and/or relocation;
  - (d) in the event the Order is confirmed by the Secretary of State, to advertise and give notice of confirmation and thereafter to take all steps to implement the Order including to execute General Vesting Declarations and/or to serve Notices to Treat and Notices of Entry in respect of interests and rights in the Order Land;
  - (e) take all steps in relation to any legal proceedings relating to the Order including defending or settling claims referred to the Upper Tribunal and/or applications to the courts and any appeals;
- (iv) Agree that, where required to assist in the delivery of the Gascoigne West Estate regeneration proposals, the Council shall appropriate land for planning purposes pursuant to Section 122 of the Local Government Act 1972 to enable Section 203 of the Housing and Planning Act 2016 to be utilised to override any third-party rights;
- (v) Agree the appropriation of the land at Gascoigne West Phase 1 under Section 122 of the Local Government Act 1972 from the Housing Revenue Account to the General Fund, following completion of the decanting and demolition of each block, as shown edged in red in Appendix 1; and
- (vi) Agree the appropriation of the land at Sebastian Court under Section 122 of the Local Government Act 1972 from the Housing Revenue Account to the General

Fund, following completion of the decanting and demolition of each block, as shown edged in red in Appendix 2.

### **Reason(s)**

The making of a CPO pursuant to Section 17 of the Housing Act 1985 will facilitate the redevelopment of part of the Gascoigne West Estate and surrounding area. This will accelerate the Council's regeneration agenda and bring forward homes in line with the Council priority 'Growing the borough'. Accordingly, it is considered that there is a compelling case in the public interest to make a CPO.

## **1. Introduction and Background**

- 1.1. Since the 2015 Cabinet Report officers have been progressing the scheme in a number of ways.
- 1.2. Housing Zone funding was secured with an initial allocation of £3.3m grant and £3.5 M interest free loan for Gascoigne West (Grant / Loan). The grant has been fully drawn down. This funding has been used for buybacks and for the road improvements to Abbey Rd.
- 1.3. In addition, Outline Planning approval for the scheme has been obtained and all properties included in the CPO area are within the Planning Red Line. Across all 3 Phases this Approval allows for the replacement of 179 homes with up to 850 new dwellings. The approval divides the scheme into 3 phases. The Council has successfully purchased by agreement all the properties required to take forward the first phase and will be submitting a Reserved Matters Planning Application in the near future. It is worth noting that the Outline Planning Permission assumes that Phase 2 will deliver over 450 new homes.
- 1.4. In addition, the Council has been purchasing by agreement a number of the leasehold interests in later phases.
- 1.5. The January 2015 report set out that a total of 89 Leaseholders across all 3 phases would need to be acquired. To date 70 leasehold interests have successfully been purchased by agreement. In Phase 2 there are 11 properties outstanding and, in some cases, terms have been agreed and the sale is progressing through the conveyancing process. All affected leaseholders have been contacted and in all cases the property has been inspected and an offer made based upon market value. We have negotiated as far as realistically possible and have followed standard practice including paying for vendors' Valuers fees, etc. where requested and Statutory Loss Payments. Only 4 of the remaining leaseholders are owner occupiers with the rest of the properties being privately let.
- 1.6. Officers believe a stage has been reached where a CPO is required to achieve vacant possession. While each case has its own circumstances largely the issue with the remaining purchases falls into 3 categories:
  - Unrealistic expectations of property values along with a misunderstanding of the CPO process.

- In some cases, we have agreed terms, but owners are reluctant to terminate tenancies and lose rent.
- Personal circumstances including probate, tax and other individual issues.

- 1.7. The Council will, of course, continue to negotiate with remaining leaseholders through the CPO process seeking to purchase by agreement and it is expected that should we need to reach the later stages of the CPO process there will be a much smaller number of outstanding cases. The expectation based upon experience is that the early stages of the CPO process will focus minds, and this will trigger further purchases.
- 1.8. The redevelopment of part of the Gascoigne West Estate will be delivered by the Council's regeneration vehicle, Be First. The scheme is considered to be financially viable and the necessary resources to deliver the project are available. Please see Finance comments below
- 1.9. We have also appointed a consultant to advise us through the CPO process. They have carried out an initial "Health Check" of our proposal and believe it is sound. However, given that 4 years have passed since the Cabinet resolution approving the use of the Council's compulsory purchase powers, and that this decision could be 5 years in the past by the time of any CPO inquiry, they have recommended we "refresh" the approval based upon the current situation. This will help mitigate one of the potential challenges to the CPO. Accordingly, approval of the use of the London Borough of Barking and Dagenham's compulsory purchase powers and appropriation powers are being sought to assist in the delivery of the Gascoigne West Estate regeneration proposals.

## **2. Proposal and Issues**

- 2.1. This report seeks Cabinet approval of the use of the Council's compulsory purchase powers and to appropriate any land required for planning purposes to enable delivery of the regeneration proposals for the relevant parts of the Gascoigne West Estate.

### **Proposed Order Land**

- 2.2. The extent of the land to be subject to the CPO ("the Order Land") is identified in the Plan attached to this report as appendix 1 and labelled Phase 2.
- 2.3. The Order Land includes leasehold interests falling within the addresses below:
- 2-55 Lindsell Road
  - 26 -63 Hardwick Road

### **The Gascoigne West regeneration proposals**

- 2.4. The Council has ambitious objectives, policies and targets for growth across the Borough including the delivery of more than 50,000 new homes and 20,000 new jobs over the next 20 years. This scheme forms an important part of that programme.

- 2.5. Outline Planning Approval for the scheme has been obtained (reference: 17/00977/OUT) and all properties included in the CPO are within the planning permission's red line. This scheme is a key part of the Borough's ambitious development programme going forward.
- 2.6. The proposals seek the redevelopment of the western part of the Gascoigne West Estate. The area proposed to be redevelopment comprises 179 residential units with the outline planning permission secured providing for the replacement of these units with up to 850 new dwellings, a potential uplift of 671 residential units. 97 of the existing properties are social rent units and these are proposed to be re-provided on a one-for-one basis, but with an increased percentage of three-bedroom units.
- 2.7. Overall the planning permission obtained provides for 357 affordable housing units (subject to grant funding) reflecting 42% of the new units being delivered. There is a quantitative increase in both the number of private and affordable units on account of the Scheme.
- 2.8. The scheme will also deliver qualitative improvements, not just in terms of new housing meeting modern design standards but also in respect of the layout of the estate. The existing layout of the estate makes wayfinding and site navigation difficult and illegible. The development promotes the introduction of clearly defined, legible pedestrian circulation routes. The proposed layout of blocks across the site creates a series of new streets/routes and redefines the character of existing ones. The proposed blocks restore a more traditional street character, with active frontages addressing the street
- 2.9. There are no listed buildings or unlisted buildings of merit within the development site area.

### **Land acquisition and negotiations and Decant Programme**

The Council has made very good progress in securing those properties required for the redevelopment by agreement. In January 2015 there was a total of 89 Leaseholders across all 3 phases which would need to be acquired and this number now stands at 19. In regard to Phase 2 there are 11 properties outstanding with 27 purchased by agreement. In regard to the remaining 11 in 3 of these cases the matter is progressing through the conveyancing process.

The Council has been in contact with all affected leaseholders and in all cases have inspected the property and made an offer based upon the property's market value. Active negotiations have taken place and with the reasonable professional fees of leaseholders paid in respect of obtaining an independent valuation where requested. Statutory loss payments have also been made in accordance with the Ministry of Housing, Communities and Local Government's Guidance on Compulsory purchase process and The Crichel Down Rules" (February 2018) ("the CPO Guidance").

Officers have reached a stage where they consider that a CPO is required in order to ensure vacant possession of the required properties is achieved within the required timeframes. Negotiations will continue throughout the CPO process, and it is expected that the commencement of the process will assist in progressing some discussions through demonstrating the Council's commitment to the delivery of the

scheme. It is therefore expected that the number of properties to acquire through the CPO will be further reduced.

- 2.10. The appropriate compulsory purchase power to support the redevelopment of part of the Gascoigne West Estate is Section 17 Housing Act 1985 which permits the compulsory acquisition of land by a Council for the purpose of the provision of housing accommodation that will achieve a qualitative and quantitative housing gain by carrying out the Scheme to develop and regenerate homes in the area. Section 17(1)(c) of the Housing Act 1985 provides that a local housing authority may acquire land proposed to be used for facilities to be provided in connection with the housing accommodation, including for the provision of shops, laundrettes, recreation grounds and any other building or land which will serve a beneficial purpose in connection with the requirements of the persons for whom the housing accommodation is provided. The commercial and community accommodation proposed to be delivered within the outline planning consent is considered to be ancillary/complementary accommodation which will meet the needs of the development.
- 2.11. The CPO Guidance requires the Council to demonstrate that there is a qualitative or quantitative housing gain and that the development will be brought forward and the land required within 10 years of the date of confirmation. The redevelopment of part of the Gascoigne West Estate will deliver on each of these tests.
- 2.12. The proposed development would result in the much-needed regeneration of the Gascoigne West Estate, in line with the recently approved regeneration scheme for the Gascoigne East Estate. The proposed development would improve urban design; provide better quality housing; and a more diverse mix of housing types and tenures to address current demand. As a result of the proposed development, the Gascoigne West Estate would be better designed; more legible; and provide for a safer environment than the existing development it replaces. Overall, the proposal would result in a more desirable place to live.
- 2.13. Accordingly, it is considered that the Scheme will deliver both a qualitative and quantitative housing gain: the scheme delivers an increase in the number of habitable rooms from the pre-existing level and will replace dwellings that do not meet the Decent Homes standard with modern homes. Furthermore, the redevelopment of the Estate will address the design and layout issues of the Estate, creating an environment that meets the needs of its residents and helps reduce anti-social behaviour. The development is expected to be delivered within 5 years of the confirmation of the Order, inside the 10-year delivery requirement of the s.17 Housing Act 1985.
- 2.14. In addition to meeting the tests of providing a quantitative and qualitative housing gain, the Council will need to satisfy that the acquisition of property in order to deliver the Scheme is in the public interest and in particular:
  - that there are no legal or physical impediments to the delivery of the scheme;
  - that the necessary resources and funding are available to achieve the purpose of the CPO within a reasonable timeframe;
  - that the purpose for which the land is to be acquired could not be achieved by any other means;
  - that the use of the Council's compulsory purchase powers is as a last resort.

- 2.15. Officers are satisfied that there are no legal or physical impediments to the delivery of the scheme. Outline planning permission has been secured establishing that the proposed development accords with the Development Plan and other relevant planning considerations. Whilst further reserved matter applications providing the detail of the proposals need to be submitted and approved, providing these are in accordance with the parameter plans there is no impediment to obtaining the relevant consents. Other than ownership of all third-party interests in land, which will be addressed through the CPO, there are no impediments to the delivery of the scheme.
- 2.16. The Scheme will be delivered by the Council's regeneration vehicle, Be First. BeFirst has been established with an objective to deliver 50,000 new homes and 20,000 new jobs in the borough over the next 20 years. The company was incorporated in October 2017. It is committed to delivering high quality, socially inclusive and environmentally friendly development whilst putting local residents at the heart of its business plan. This includes delivering a range of housing tenures, types and styles but making affordable housing truly affordable.
- 2.17. Single ownership and control of the Order Land is necessary to enable the Scheme to proceed and to deliver the full range of public benefits. Given the number of third-party interests identified to still be acquired and the history of negotiations, it is unlikely that the Council will be able to acquire all of the necessary interests by agreement within a reasonable timescale. The Council has therefore made the Order to ensure that the significant benefits of the Scheme can be brought forward in a reasonable timescale. Whilst the Council's approach is to negotiate the purchase of all interests wherever possible by agreement, given the fragmented nature of the Order Land, confirmation of the Order is required in order to use compulsory purchase powers where necessary.
- 2.18. Negotiations have been pursued with those affected by the Order with success: agreements have been reached with 27 leaseholders, leaving 11 properties to acquire. All reasonable efforts will be made by the Council going forward to acquire property through negotiation and agreement. Nevertheless, it is clear that an Order is required to ensure that there is sufficient certainty that regeneration can come forward as envisioned by the Council, the community, key stakeholders and partners.
- 2.19. As is typical of Regeneration schemes generally, a point is reached where those willing to engage and reach a sensible agreement have all been engaged with success and there are those who, for various reasons, are not willing to enter into an agreed sale of their property with the Council. While it is possible the Council could continue to work without a CPO to deliver the scheme, even when taking an optimistic view such an approach would probably mean delivery of the scheme was delayed by years. If the Council were not prepared to use its CPO powers some Leaseholders would see this as increasing their leverage and raise their expectations as to the value of their property. So, to ensure that properties can be acquired at an appropriate level of compensation, a CPO needs to be progressed.
- 2.20. For the reasons explained above, Officers consider there to be a compelling case in the public interest to proceed with Order.

- 2.21. We have also reviewed the decant programme for tenants to ensure it is aligned with the CPO process. Currently there are 30 tenants and we are on average rehousing 3-4 a month. The final decants are likely to be more problematic but, on this basis, it appears that we should achieve vacant possession for both tenures at approximately the same time.

### **Appropriation of land for planning purposes**

- 2.22. Cabinet is also being asked to agree to the appropriation of land within the proposed area of redevelopment of the Gascoigne West Estate as shown on the plan provided in Appendix [1] as Phase 2 for planning purposes in accordance with Section 122 of the Local Government Act 1972 and Section 203 of the Housing and Planning Act 2016. The appropriation of land and buildings allows local authorities to alter the purposes for which it holds land. Where land has been appropriated for planning purposes third party rights over the land can be overridden under Section 203 of the Housing and Planning Act 2016. Beneficiaries of rights are still entitled to claim compensation but are not able to seek an injunction to stop the development. The use of these powers will assist in ensuring that these important regeneration proposals can proceed on time.

In addition to the above this report allows an opportunity to address outstanding historic issues around appropriation on other schemes. In the first instance for Phase 1 at Gascoigne West we are seeking approval to appropriate the land from the Housing Revenue Account to the General Fund, following completion of the decanting and demolition of each block, as shown edged in red and a labelled Phase 1 in Appendix 1. This will enable us to address third party rights.

Secondly, we are seeking approval to appropriate the land at Sebastian Ct from the Housing Revenue Account to the General Fund, following completion of the decanting and demolition of each block, as shown edged in red in Appendix 2. This will enable us to address third party rights.

## **3. Options Appraisal**

- 3.1. Certain public bodies including local authorities have enabling powers authorising them to acquire land compulsorily. They also have powers to appropriate their own land for planning purposes and subsequently override third party rights.
- 3.2. The main alternative option to the use of the Council's statutory powers would be to continue to try and acquire all third-party interests required for the redevelopment entirely through negotiation and private treaty. However, it would be very unlikely that all the interests could be acquired by private treaty within the necessary timescales and at a reasonable cost. Some third parties may choose not to sell, some may choose to wait a longer time before selling and the Scheme could stall or even fail to proceed if this was the case.
- 3.3. The option of excluding properties has been reviewed but this would not allow delivery of the Outline Planning Permission as the scheme requires the properties to enable the comprehensive development with the range of social and economic benefits it would deliver.

#### **4. Consultation**

- 4.1. Use of CPO and appropriation powers for Gascoigne West Estate has been discussed at the Council's Capital and Assets Board and Investment Panel.
- 4.2. Consultation took place on the scheme proposals prior to the submission of the Outline Planning Application. Formal planning consultation processes also took place including affected occupiers who were able to submit objections. It is worth recording that there were only 5 objections to the application.
- 4.3. In regard to the purchase process as outlined above we have been working with all affected parties on an individual basis. This is the most appropriate format when purchasing properties as each individual's circumstances are personal and confidential. There has been no request to meet leaseholders as a group or any body formed by leaseholders.
- 4.4. The CPO process itself gives affected third parties the opportunity to object to the making of the CPO and could potentially result in a public inquiry whereby the independent Planning Inspectorate assesses the case for utilising CPO powers and puts forward a recommendation to the Secretary of State as to whether to confirm the CPO or not.

#### **5. Human Rights**

- 5.1. In reaching their decision, members should take account of the provisions of the Human Rights Act 1998. As a public authority, the Council must not act in a way which is incompatible with a Convention right protected by the Human Rights Act 1998. The relevant human rights protected by the 1998 Act which are engaged by the decision to authorise the compulsory purchase are those Article 8 (right to a private and family life), Article 1 of the First Protocol of the Convention and Article 6 (1) (right to a fair and impartial public hearing within a reasonable time).
- 5.2. A key provision of the CPO Guidance is the need for there to be a "compelling case in the public interest" for compulsory acquisition. It is necessary in this to consider Convention rights which are engaged by and potentially affected by the making and confirmation of a CPO. In relation to Article 1 of the First Protocol of the European Convention which provides a right for the peaceful enjoyment of possessions, a fair balance is required to be struck between the public interest and private rights in relation to possessions/property. Article 8 is not an absolute but qualified right, such that any interference with the right to respect for a person's private and family life and home must be proportionate to any legitimate aims, such as promoting regeneration for the well-being of the area.
- 5.3. Article 6(1) is engaged because the CPO process involves determinations as to third party rights of individuals, as to which they have the right to a fair hearing. Similarly, to Article 8, the Article 6(1) rights are also qualified, and some restrictions may be justified to pursue legitimate aims and provided that they are proportionate. Potentially affected individuals have had the opportunity to date to object to the Scheme through the planning process. Individuals whose human rights could potentially be interfered with as a result of the CPO can object to the validity of the CPO and such objections would be considered at an independent public inquiry, which would afford the objectors a fair hearing of their concerns. Failing agreement

on the compensation arising from the CPO, any affected individuals have the right to pursue a claim for compensation to the Upper Tribunal (Lands Chamber). It is deemed that the process affords affected individuals sufficient opportunity to a right to a fair hearing.

- 5.4. The proposed development has been a long-term objective of the Council. In addition to delivering both a quantitative and qualitative housing gain, the Scheme will deliver wider public benefits in the form of a better designed, more legible and a safer environment than the existing development it replaces.
- 5.5. It is considered that the potential for some degree of interference with Article 8 and Protocol 1 rights is necessary in the interests of well-being of the area, it is in the general public interest and is deemed proportionate to those legitimate aims. Any interests acquired or any interference with third party rights will carry a right to compensation in accordance with the Compulsory Purchase Compensation Code and the opportunity to a fair and impartial hearing in that regard.

## **6. Equalities**

- 6.1. The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics namely: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Section 149 of the Equality Act 2010 places the Council, as a public authority, under a legal duty ("the public sector equality duty"), in the exercise of all its functions, to have due regard to the need to:
  - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act;
  - advance equality of opportunity between persons who share a "relevant protected characteristic" (i.e. the characteristics referred to above other than marriage and civil partnership) and persons who do not share it; and
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 6.2. An equalities impact assessment has previously been undertaken as part of setting the planning policy framework for the Borough. The planning application for the development proposal also assessed the potential impact on equalities and social cohesion. The conclusion reached was that the impact was neutral.
- 6.3. With the limited number of cases now left we have carried out a more in-depth exercise writing to remaining owners. With specific reference to equality issues we asked owners to confirm if there were any particular personal circumstances that were impeding the sale of their properties to us. We received 3 responses. One response identified issues around mobility which we are now addressing as far as possible, the 2 other responses cited valuation issues as the problem. We believe the outstanding cases reflect the original demographic mix with no group overrepresented in the remaining cases.
- 6.4. A scheme assessment has not identified any adverse equalities impacts from exercising the Council's CPO powers in order to facilitate the development scheme.

## **7. Financial Implications**

Implications completed by: Katherine Heffernan – Finance Group Manager

- 7.1. As set out in this report, the Gascoigne West scheme was included in a report to Cabinet in January 2015 on the Estate Renewal Programme. In the case of Gascoigne West this was subject to confirmation of the Housing Zone funding which has been received. Costs above this will be funded by the Council including from the HRA as part of the capital allocation for the Estate Renewal Programme.
- 7.2. It should be noted that the HRA capital programme is largely funded from revenue contributions although the recent lifting of the debt cap does mean that capital borrowing may be available in future for schemes with a strong business case.
- 7.3. Since approximately 2015/16 the costs of voluntary and compulsory purchase for estate renewals schemes has been rising in line with the London land values. This has required additional funding to be made available for the Estate Renewal Programme which funds these. The total allocation in 2019/20 is £11.5m and then £6m in all subsequent years.
- 7.4. Within the 2019/20 allocation is an estimated £3m for Gascoigne West. The costs of the buy outs are estimated to be £2.5m to £3m so there is sufficient funding. However, if the expenditure goes above this level it will result in an overspend. The HRA has been under financial pressure in recent years and the overall balance is projected to fall in 2019/20 so over spending could present a serious risk to the HRA and so strict monitoring should be in place to ensure it does not arise.
- 7.5. In addition, the Finance team would recommend as good practice that where the costs of purchase have risen then the overall financial returns from the scheme should be reassessed.
- 7.6. The Estate Renewal programme has an allocation for the costs of the buy outs. However, the subsequent costs of development will need to be addressed. It is expected that these should be funded from borrowing using the Council's prudential borrowing powers. This requires a strong business case showing that the return on the investment is sufficient to meet both the interest costs and make a minimum revenue provision on the total costs of the scheme. This requires the approval and ongoing monitoring by the Council's investment panel and Cabinet will need to approve its addition to the capital programme.

## **8. Legal Implications**

Implications completed by: Dr. Paul Feild Senior Governance Lawyer

### **Outline**

- 8.1. This Report asks the Cabinet to agree subject to consideration of the matters set out in the report to make a Compulsory Purchase Order ("CPO" / "the Order") pursuant to Section 17 Housing Act 1985. This is a Cabinet decision (see Constitution Part 2 Chapter 6 (vi)).

- 8.2. The exercise of the CPO power is to take action to force a property owner to sell to a local authority their interest in land be it freehold or if a flat their leasehold interest. It is only to be used as a last resort as it involves an interference in property rights which are protected in law and specifically by the Human Rights Act. Justification has to be made by providing a statutory Statement of Reasons.
- 8.3. Section 17 of the Housing Act enables a Local Housing Authority (the Council) to acquire property for the purposes of erecting housing either by agreement or with the authority of the Secretary of State by CPO. Guidance has been issued on the use of CPO's and process to be followed (Ministry of Housing, Communities and Local Government's Guidance on Compulsory purchase process and The Crichel Down Rules" (February 2018)). It is a key requirement that the acquisition under the Section 17 power must achieve a quantitative or qualitative housing gain.

### **Human Rights Act 1998 Considerations**

- 8.4 The Human Rights Act 1998 ('the HRA 1998') effectively incorporates the European Convention on Human Rights into UK law and requires all public authorities to have regard to Convention Rights. In making decisions officers and members, therefore, need to have regard to the Convention. The use of CPO powers are regulated by the HRA 1998 It prohibits unlawful interference by public bodies with European Convention rights. The term 'engage' simply means that human rights may be affected or relevant.
- 8.5 The rights that are of significance to the decision in this matter are those contained in Article 8 (right to respect for private and family life) and Article 1 of Protocol 1 (peaceful enjoyment of possessions). Article 8 provides that there should be no interference with the existence of the right except in accordance with the law and, as necessary in a democratic society in the interest of the economic wellbeing of the country, protection of health and the protection of the rights and freedoms of others. Article 1 of the 1<sup>st</sup> Protocol provides that no-one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law although it is qualified to the effect that it should not in any way impair the right of a state to enforce such laws as it deems necessary to control the uses of property in accordance with the general interest.
- 8.6 In determining the level of permissible interference with enjoyment the courts have held that any interference must achieve a fair balance between the general interests of the community and the protection of the rights of individuals. There must be reasonable proportionality between the means employed and the legitimate aim of regeneration. The availability of an effective remedy and compensation is relevant in assessing whether a fair balance has been struck. Therefore, in reaching a decision, the Council needs to have regard to the extent to which the decision may impact upon the Human Rights of the leaseholders who are subject to a CPO and to balance this against the overall benefits to the community, which the proposed redevelopment would bring. The Cabinet will wish to be satisfied that interference with the rights under Article 8 and Article 1 of Protocol 1 is justified

in all the circumstances and that a fair balance would be struck in the present case between the protection of the rights of individuals and the public interest.

- 8.7 This report seeks authority that where required to assist in the delivery of the Gascoigne West Estate regeneration proposals, the Council shall appropriate land identified in this report in Appendix 1 for planning purposes pursuant to Section 122 of the Local Government Act 1972 this will enable Section 203 of the Housing and Planning Act 2016 to be utilised to override any third-party rights. In such case account will be taken of any value of a disposal from the Housing Revenue Account in accordance with statutory guidance and consents
- 8.8 This report further seeks authority that in the delivery of the Sebastian Court Development regeneration proposals, the Council shall appropriate land identified in this report as Appendix 2 for planning purposes pursuant to Section 122 of the Local Government Act 1972 this will enable Section 203 of the Housing and Planning Act 2016 to be utilised to override any third-party rights. In such case account will be taken of any value of a disposal from the Housing Revenue Account in accordance with statutory guidance and consents.

## 9. Other Implications

- 9.1 **Risk Management** - The scheme is crucial to delivering the regeneration aspirations being pursued by Be First on behalf of Barking and Dagenham Council. As the project proceeds risks will be identified early in the process, a risk register maintained, and mitigation measures put in place.
- 9.2. **Staffing Issues** - External Consultant expertise will be appointed as appropriate. However, the process will be cliented by current internal staff.
- 9.3 **Corporate Policy and Customer Impact** - The use of statutory powers to deliver the Gascoigne West scheme will assist in delivering an important regeneration proposal. This is consistent with the independent Growth Commission's recommendations for the borough to continue bringing forward redevelopment which will help encourage further regeneration and investment. The delivery of the scheme will help deliver the aspirations of the Council's vision and corporate policies. The Scheme which will be enabled by the CPO is also consistent with the Council's planning policies.
- 9.4 **Safeguarding Children** - These issues were considered as part of the original planning approval and the Equalities Impact Assessment in relation to the CPO.
- 9.5 **Health Issues** - The scheme itself presents an opportunity for improving health and reduced health inequalities through social and economic regeneration, improved public realm, e.g. walking and cycling and future health and care facilities.
- 9.6 **Crime and Disorder Issues** - These were considered as part of the planning application decision making. The Scheme will improve crime prevention through its design which improves natural surveillance.

9.7 **Property / Asset Issues** - The Council will be acquiring additional assets however with the intention of redevelopment.

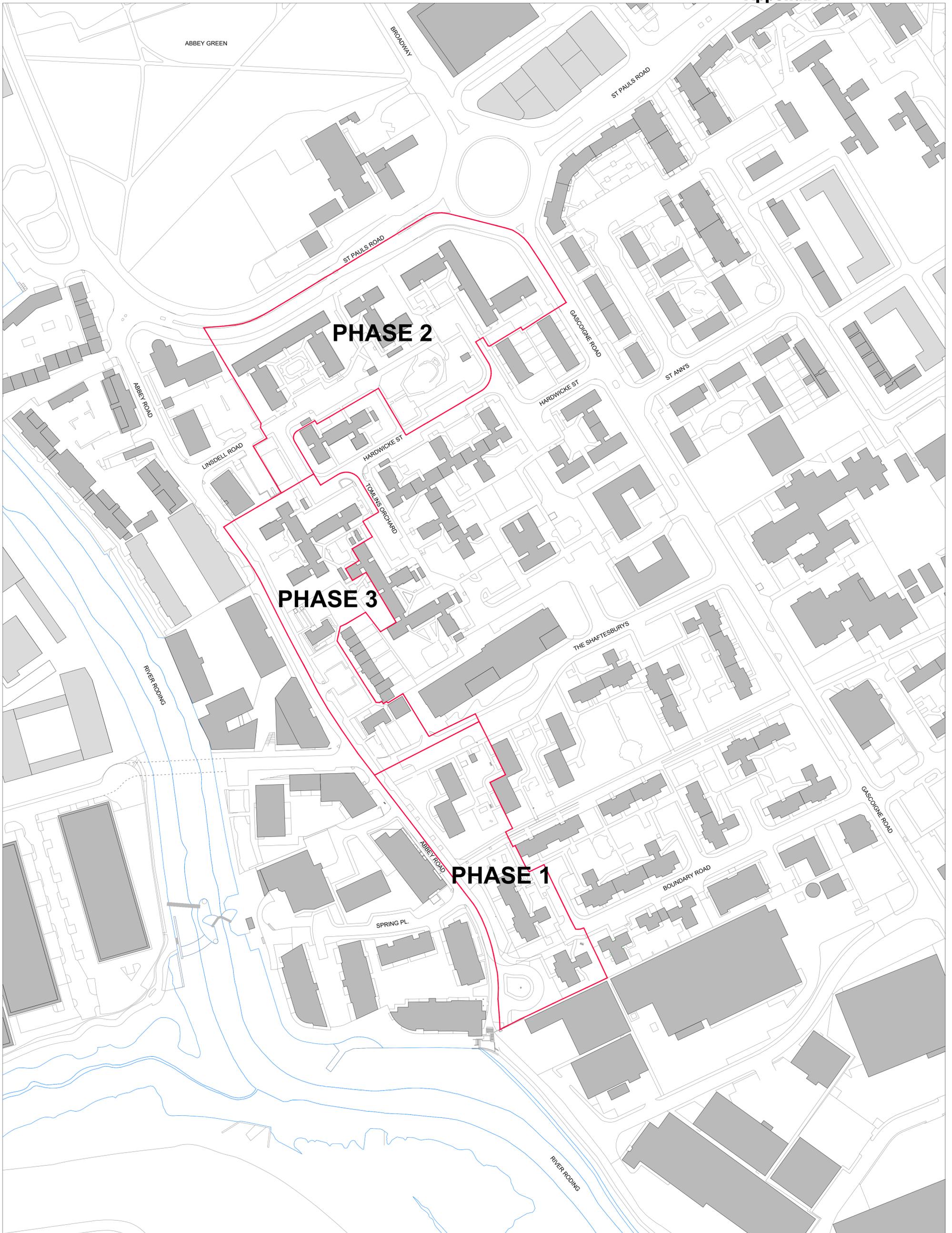
**Public Background Papers Used in the Preparation of the Report:**

Ministry of Housing, Communities and Local Government's Guidance on Compulsory purchase process and The Crichel Down Rules" (February 2018)

**List of Appendices:**

Appendix 1: Gascoigne West

Appendix 2: Sebastian Court



notes  
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drawing notes  
 APPLICATION BOUNDARY



Site Area = 34,944m<sup>2</sup> (3.49 hectares)

REV | BY | CHKD | DATE | AMENDMENT DETAILS

project  
**Gascoigne West Barking - Phase 1**  
 London IG11

client  
**London Borough of Barking and Dagenham**



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 T:020 7251 0543

drawing title  
**Section 106 Plan 1 APPLICATION BOUNDARY**

**PLANNING**

scale 1:1000@A1	drawn by LM	checked by FBM	date 11.12.18
DRAWING NUMBER	project <b>1075</b>	status <b>P</b>	revision <b>0500</b>

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**CABINET****16 July 2018**

<b>Title:</b> Review of School Places and Capital Investment - Update June 2019	
<b>Report of the Cabinet Member for Educational Attainment and School Improvement</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All Wards	<b>Key Decision:</b> Yes
<b>Report Author:</b> Andrew Carr , Group Manager School Investment, Organisation and Admissions	<b>Contact Details:</b> Tel: 020 8227 2254 E-mail: andrew.carr@lbbd.gov.uk
<b>Accountable Director:</b> Jane Hargreaves, Commissioning Director Education	
<b>Accountable Strategic Leadership Director:</b> Elaine Allegretti, Director of People and Resilience	
<p><b>Summary</b></p> <p>This report provides an update on the latest information regarding forecast demand for education places across the Borough's schools. It also provides an update on some specific projects which are necessary to respond to place demand and advice about the capital grant from the Education and Skills Funding Agency (ESFA) to be made available for the financial year 2019/20.</p> <p>Additional school places will be made available from September 2019 at the following school:</p> <ul style="list-style-type: none"> <li>○ Secondary – Greatfields 90 additional places at year Yr7</li> </ul> <p>New funding has been announced to support investment in the Borough's schools for 2019/20 to support condition improvements which includes:</p> <ul style="list-style-type: none"> <li>○ £560,917 Devolved Formula Capital Allocation – maintained LA Schools</li> <li>○ £91,784 Devolved Formula Capital Allocation – maintained VA Schools</li> <li>○ £3,863,338 School Condition Capital Allocation – maintained LA Schools</li> <li>○ £592,127 School Condition Capital Allocation – maintained VA Schools</li> </ul> <p>The report also includes proposals to increase the investment in the project at Robert Clack by £3.2m due to the extent of the project as set out in Section 6 of the report.</p>	
<p><b>Recommendation(s)</b></p> <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none"> <li>(i) Approve the Strategy for Ensuring Sufficient School Places and School Modernisation to 2027, and the Future Planning Programme to meet Basic Need (including SEN places) 2019 to 2027 (revised June 2019) as set out in section 8.3 and Appendices 1 and 2 of the report;</li> </ul>	

- (ii) Note the urgent work being undertaken by officers regarding additional primary school provision in the Abbey, Eastbury and Gascoigne areas of the Borough as referred to in paragraph 2.4 of the report;
- (iii) Note the work being undertaken by officers in relation to provision of school places for children with Special Educational Needs and Disabilities as detailed in paragraph 2.7 of the report, including discussions with the Department for Education regarding suitable sites for a new school to support pupils with severe learning difficulties and autism;
- (iv) Approve the inclusion in the Capital Programme of the DfE grant allocations for 2019/20 as detailed in section 3 of the report;
- (v) Note the delay by the Department for Education in announcing Basic Need funding allocations for 2021/22 to support the development of new school places as set out in section 4 of the report;
- (vi) Approve the various projects and associated changes to the Capital Programme as set out in Section 6 and summarised in Section 7 of the report;
- (vii) Delegate authority to the Director of People and Resilience, as advised by the Procurement Board, to consider and approve the final procurement strategies for each project; and
- (viii) Delegate authority to the Director of People and Resilience, in consultation with the Cabinet Member for Education Attainment and School Improvement, the Chief Operating Officer and the Director of Law and Governance, to conduct the procurements and award the respective project contracts.

**Reason(s)**

The decision will assist the Council in fulfilling its statutory obligations to provide a school place for every child and support the intention of the Council's Vision and Priorities, including encouraging civic pride, enabling social responsibility and growing the Borough, and delivering the ambition for excellence in education set out in our Education Strategy.

**1. Introduction and Background**

- 1.1 It has been the practice since 2010 to report regularly to Cabinet on the issue of the forecast for pupil numbers. These reports have also covered a programme of proposed works necessary to ensure that children in the Borough have the opportunity to attend school and to have a safe suitable environment. The last report presented to Cabinet on this subject was on 22 January 2019, Minute 81 refers.
- 1.2 This report provides an update and sets out the most up to date information on the projected demand for education places for September 2019. Further, the report covers a number of initiatives which build on existing arrangements to develop the use of accommodation.
- 1.3 The third aspect of the report is to provide an updated Strategy for Ensuring Sufficient School Places and School Modernisation through to 2027, and Future

Planning Programme to meet Basic Need 2019 to 2027 (Appendices 1 and 2) to support the forecast pupil demand. The Service will continue to contribute to a London wide plan being supported by the Association of London Directors of Children’s Services (ALDCS) and London Councils. The appendix to this report shows the current position and plan following advice about site availability.

## 2. Update on Pupil Numbers and Capacity for September 2019

2.1 Cabinet has received regular reports about the continuing demand for school places and the need to develop additional high quality provision. It is worth noting that providing sufficient school places is a national issue and in particular regional to London due to rising population which is now causing pressures in the secondary sector. For Barking and Dagenham it has been a major priority for investment over the last 12 years, since 2007.

2.2 When looking at the forecast in growth of the pupil population a number of factors are taken into consideration as follows:

- Numbers of pupils currently in the borough;
- Birth figures;
- New housing proposals, as advised in the Local Plan Review;
- Historical data e.g. pupils living in borough but choosing out borough schools;
- Internal knowledge of recent population fluctuations in particular the impact of population movements into and out of the Borough;

2.3. The position for the reception year classes for September 2019 is that we are anticipating that there will be a surplus of places as with last year above the operating spare capacity we are aiming for. We aim to have 3% - 4% spare capacity for fluctuations across the Borough and for parents to express a preference. This surplus above the operating spare capacity for September 2019 is as a result of the fall in birth numbers in 2014/15. For information the birth data was as follows:

<b>Birth Year</b>	<b>Birth Numbers</b>	<b>Reception Year</b>
2012/13	3,841	2017/18
2013/14	3,754	2018/19
2014/15	3,698	2019/20
2015/16	3,900	2020/21

To manage this dip in place demand, the Admissions Team are in discussion with some schools to temporarily reduce the Pupil Admission Number at a few schools in the Borough and to manage a reduction aiming to minimise financial hardship to the schools affected.

2.4 However, the position in Barking around the Abbey, Eastbury and Gascoigne wards continues to cause concern about the future opportunities for school places in this location, particularly for primary school provision. There are a number of planning applications awaiting decision to allow development of new homes, others which have consent and are waiting for construction, and a number of sites in construction. The numbers of new homes in these Wards which have been made known to Education amount to 4,300 with further developments being considered.

The Council needs to identify a further site in Barking suitable for a Primary School as indicated in the report to Cabinet In January 2019.

- 2.5 With regard to the provision of Yr7 places measured against demand, the position for September 2019 is that there are sufficient places overall for September but not enough to provide the level of contingency for families likely to require places over the course of the academic year. Cabinet Members will appreciate that it is difficult to be precise about future demand but the indicators are that for this coming September we need to have 3,360 places and our capacity in the current academic year is 3,450. This will probably mean there are insufficient Year 7 places to meet demand through the 2019/20 academic year for families moving to the borough. To manage this pressure we will prepare a plan with schools to put in place temporary arrangements to ensure a school places are made available if needed.
- 2.6 There is a provisional plan to create places in the Future Planning Programme for Basic Need and the intention is to keep projects on programme. There is a project in construction to provide an expanded provision at Robert Clack, Lymington. This creates 180 Yr7 places to be available for September 2020. Discussions are taking place about the number of places to be used in September 2020 having regard for the Robert Clack School and potential impact on neighbouring schools.

## **2.7 Calculating a forecast for Children with SEND**

- 2.7.1 Along with many local authorities, particularly in London, LBBD have tracked information which is showing a progressive rise in children with SEND. In terms of forecasting future numbers it has been a traditional method to use a percentage of the total child/pupil population to try and forecast this group of young people. In order to introduce a more sophisticated forecasting model a number of colleagues have been working together to develop a more accurate approach. A number of options have been modelled and it has been decided to use a model based on numbers in special school provision, both in and out Borough, those in ARPs (Additional Resource Provision) and those pupils who receive additional support in their host school. By looking at trends in the numbers of SEND pupils over the past 10 years and using the actual current numbers it has been possible to forecast forward so that demand can be estimated.
- 2.7.2 The outcomes from the review underpin the need for a school to support pupils with Social Emotional, Mental Health (SEMH). This provision was initiated last September 2018 and is currently being supported by Trinity School management on part of the former City Farm site in Thames Road. This arrangement will cease in the summer 2019 as a new school called Pathways is planned to open in September 2019 using the City Farm site on a temporary basis. This will be managed by the EKO Trust. There a lease is to be granted by the Council to the EKO Trust for up to 3 years whilst the DfE/ESFA are in the process of securing a site in Dagenham. The intention is to build a new SEMH school for up to 90 pupils on this new site with the new buildings being available by the start of the 2022 academic year.
- 2.7.3 The second aspect revealed by the review is the need for a further school to support pupils with Severe Learning Difficulties and Autism where the estimated need is over a 5-year period up to 2024, a new special school will be needed to

provide places for up to 160 pupils. Currently Officers in the Council are working with the DfE to identify suitable sites in the borough as a matter of urgency.

2.7.4 The additional element to the review also identified the growing number of pupils in existing provision who will need support through Further Education as numbers remaining in school above 16 years of age continue to rise. A sum of £1m was set aside in the budget to support an expanded provision at Trinity at Cabinet, 17 July 2018. The plan is for a project to commence on site at Easter 2020 are in development, and once the work is complete some additional capacity in the main school building at Trinity will be released for a small number of statutory age pupils.

2.7.5 Early scoping is also being undertaken for a specialist residential provision in Barking and Dagenham, helping to bring vulnerable children back into the borough to attend Trinity School, and delivering a total saving of approximately £500k per annum. The scoping suggests that this provision would be best delivered in strong partnership with a trusted education partner and work will be ongoing to ensure these two strands of work are closely linked.

### **3. New Department of Education Grant Allocations 2019**

3.1. New advice has been received from the DfE about funding being made available to support capital projects for improvement or repair in 2019/20. Details are set out in the following paragraphs 3.2 to 3.4.

#### **3.2 Devolved Formula Capital 2019/20 (DFC)**

3.2.1 This is a fund of money from the Government which has been allocated now for a number of years (2006/7) and is designed to be passed to all maintained schools in the Borough. Academy and free schools receive a separate allocation direct through their own funding allocation by the Education and Skills Funding Agency (ESFA).

3.2.2 The fund of £560,917 for LA schools which has been estimated and needs to be confirmed by ESFA, is pass-ported directly through the School's Finance Team under the direction of the Chief Operating Officer to the Borough's schools. Voluntary Aided Schools are advised directly by the ESFA of their share of DFC; the total for VA schools in the Borough amount to £91,784. This sum of £560,917 would need to be shown in the Council's Capital Programme, but the funding for VA schools does not.

#### **3.3 School Condition Capital 2019/20 (SCC)**

3.3.1 There are two aspects to this fund. The sum of £592,127 was known as LCVAP (Locally Controlled Voluntary Aided Programme) now School Condition Capital for VA Schools and this sum is a programme developed with the Diocese of Brentwood and the Diocese of Chelmsford and the voluntary aided schools in the Borough based on agreed priorities. This fund only provides 90% of the cost and VA schools have to meet the other 10% of costs. The programme is then advised to the DfE who reimburse schools in the programme once accounts are presented. The funding does not need accounting for in the Council's accounts as no funds are received but it is an indication of investment in the locality. For future years the ESFA have indicated the intention to pass this funding responsibility directly to the Diocesan Boards, but it would be the objective with the Diocesan Boards for

Education Commissioning to work with them to ensure that safety issues are addressed as a priority.

- 3.3.2 In terms of the funding for the Borough maintained schools, the sum of £3,863,338 needs to be included in the capital programme. This sum will be the subject of reports to the Procurement Board as appropriate and will comply with the provisions of the Strategy for Ensuring Sufficient School Places and School Modernisation. The programme of works will be derived from technical advice and the content of the School Estate Asset Management Plan Database and the recently commissioned DfE school condition survey data. The overall investment programme will be approved by the Commissioning Director Education.

#### **4 Capital for Basic Need 2021/22:**

- 4.1 The DfE announced on 5 March 2019 that they would not be making allocations of funding to support Basic Need – new school places – for the financial year 2021/2022 until later in the year. They have taken this decision because there is a planned spending review being conducted across Government during the course of the year. As funding for the current financial year 2019/20 and the next year 2020/21 have already been held in a reserve to meet any unexpected future needs.
- 4.2 In previous years we have benefitted from higher basic need allocations to support additional high quality mainstream school places. However, as reported in Section 2 above we saw a reduction in the birth rate in 2013/14 and 2014/15 so demand is not so high. Further we have had significant investment through the free school programme and the Targeted Basic Need Programme as well as the Priority Schools Building Programme which has supplemented the development of school places over the last 3 years. Additionally, we have a number of projects in the Free School Programme pipeline which include 3 new primary schools, a new secondary school and 2 special needs schools. These projects are subject to further discussion with the DfE and ESFA about timing but have been agreed in principle. Of course there are also ongoing projects funded through previously approved Basic Need Grant which the Council has approved and are detailed in Appendix 2 to this report.
- 4.3 As soon as the Director is informed of any allocation to support Basic Need this will be reported to Cabinet in order for the Chief Operating Officer to include in future years funding.

#### **5. Available Capital for meeting Basic Need**

- 5.1 At the Cabinet meeting on 17 July 2018 minute 18 a summary of the available capital budget to provide new school places of Basic Need Grant from Central Government (DfE) was presented as follows:

Allocation of funding not set against specific projects (includes Basic Need Funding 2020/21 financial year)	£18,718,443
-----------------------------------------------------------------------------------------------------------------	-------------

#### **6. Robert Clack Expansion Project**

- 6.1 Cabinet Members will be familiar with the desire to expand provision on the two existing Robert Clack sites and to provide a new site at Lymington Fields which will

bring a new 630 place primary building and 900 place secondary provision. Overall the school will change from being a provision for 1500 pupils 11 to 16 plus sixth form, to one with 3,330 pupils plus nursery and sixth form.

- 6.2 The budget to build the new provision, both primary and secondary, was set at £28,750,000 by Cabinet decision at its meeting 19 July 2016. There was a subsequent report requesting the additional sum of £1m approved by Cabinet to support the provision of improved highways provision which the pupils attending the School buildings will benefit from. This whole sum is being met from Government Grant for Basic Need being passed to the Council to provide new school places.
- 6.3 Since the budget was set 3 years ago more information has come to light about the work to construct the buildings, what needs to go inside, particularly as the School is under a new Head Teacher who needs to come to terms with the significant changes the school will be facing. The Council has been working with BeFirst regarding construction work, the Local Education Partnership (LEP) and both advisers to the School and the Council to ensure that this project is a success. Robert Clack is one of the most popular schools in the Borough at Secondary level and it is important that changes to its operation do not impact in a negative way.
- 6.4 Having listened to the advice from BeFirst and the issues raised by the School some new costs have been identified. It is proposed to increase the budget for the overall project by £3.2m subject to the views from Cabinet Members. This sum will be used to support the following issues:
- a) The rising cost of building and fitting out since the original budget was set;
  - b) Improving IT provision across the school
  - c) Matching existing furniture provision
  - d) Installing some specialist audio and visual equipment
  - e) Further highways improvements
  - f) Some changes requested by the School post contract – allows improved use of facilities
  - g) Improving field drainage on the site for pupil access
  - h) Installation of pathway link between the new school buildings and the existing buildings in Green Lane
  - i) Installation of CCTV in line with existing on current sites
  - j) Installation of School Meals catering kitchen
- 6.5 The project to expand Robert Clack has been complex and is the largest Council funded school scheme in the programme to respond to demand for a growing population. It has been necessary to listen to the needs of the school and take advice from our technical advisers in BeFirst about the extent of some of the construction work. Members of Cabinet are asked to commit a sum of £3.2m funded by DfE grant to support the project and meet the objectives for education which the School is aiming to achieve.

## **7. Managing Support for Specific Projects**

- 7.1 Turning now to the need to set aside some funding for supporting specific schemes as detailed in sections 6 above. The following budget adjustments are requested

and can be supported from the funds identified in 5 above. This report only identifies one scheme and funding allocation is summarised below:

Budget Indicated at (para 5.1 above)	£18,718,443
Less:	
• Robert Clack Expansion Project	£3.2m
Balance to be retained for future provisions	<u>£ 15,518,443</u>

7.2 This sum of £15,518,443 should be held in reserve as there are a number of regeneration schemes which will put pressure on capital to provide new school places. As more information and certainly about timing becomes available this will be reported to Cabinet together with plans about how provision to provide new places will be addressed. The availability of these funds is through grant some of which will not be received until the financial year 2020/21.

## 8. Options Appraisal

- 8.1 The agreed investment strategy (see Future Planning Programme to meet Basic Need [including SEN places] 2019 to 2027 which is attached to this report) is first, to expand provision on existing school sites as far as practicable to meet local demand on a forward looking basis (i.e. to seek value for money solutions which have longevity); secondly to seek and build on sites in areas of demand in Council or other public ownership that are suitable for development as a school and which also offer value for money and longevity; then subsequently to support those external providers that have access to further capital funding and are capable and willing to provide high quality inclusive education places that comply with the Council's Admissions Policies.
- 8.2 The variables that influence the delivery of this strategy are: demand fluctuations; the willingness of governing bodies to accede to expansion plans; funding limitations; cost variances – specific to sites and; timescales to achieve cost efficient / competitive prices often in short timescales.
- 8.3 The proposed delivery of the strategy is set out in the Appendix 1 (Strategy for Ensuring School Places and School Modernisation to 2027). As part of the strategy the document encompasses a further document now updated Future Planning Programme to meet Basic Need [including SEN places] 2019 to 2027 Appendix 2. This document sets out proposed projects. Specific projects may be subject to change for the reasons set above, and other projects substituted. The overall strategy is robust and remains the same: individual project specifics may change but will remain in the overall strategic framework.
- 8.4 Options exist for any specific scheme and are explored to ensure that the overall strategic outcomes sought are achieved in the most beneficial way being economic and appropriate for the school. Other overall strategies e.g. to rely on outside providers to meet the prospective short fall of school places would not be effective on their own: timescales and speed of reaction are too short.

## **9. Consultation**

- 9.1 These proposals are not Ward specific. There has been consultation with a range of officers throughout the Council in order that appropriate matters are considered including financial, legal, risk management and others mentioned in section 13 of this report.

## **10. Procurement Implications**

Implications completed by: Richard Barrett Category Manager

- 10.1 The report seeks the approval of

- The Strategy for Ensuring Sufficient School Places and School Modernisation to 2027, and the Future Planning Programme to meet Basic Need.
- Delegation of authority to Procurement Board and the Director of People and Resilience to approve the final procurement strategies for each project
- Delegation of authority to the Director of People and Resilience, in consultation with the Cabinet Member for Education Attainment and School Improvement, the Chief Operating Officer and the Director of Law and Governance, to award the respective project contracts

Corporate Procurement should be engaged early at the overarching strategy level and with each individual project to ensure procurement activity will be conducted in compliance with the Council's Contract Rules, EU and PCR 2015 legislation. Corporate Procurement are available to assist with commercial advice and guidance with regard to the appropriate procurement routes, tender approaches and contractual arrangements to secure the outcomes required on the best commercial basis.

## **11. Financial Implications**

Implications completed by: Katherine Heffernan, Group Manager – Service Finance

- 11.1 This report provides an update on projected pupil numbers and planned place provision for the 2019/20 academic year. There is a forecast dip in demand for reception places which could result in excess capacity however in the longer term the forecast is for future growth especially in the west and south of the borough. Since school funding is directly linked to the number of filled places, it is very important that the authority and schools work together in a planned way to minimise vacancies.
- 11.2 The report also identifies growth in the number of children with special educational needs including those with complex needs requiring specialist provision. This trend (which has existed for some time) is linked to pressures on the High Needs Block of the DSG which overspent in 2018/19 and is at risk of doing so again in 2019/20. There is a strong need therefore to expand provision available that offers best value for money (both high quality and lower in cost than the independent sector).
- 11.3 This report also sets out capital programme funding allocations for 2019-20 of £652,701 devolved formula capital which will be passported directly to schools and

£4,455,462 Schools Condition Capital. Cabinet approval is requested to add this to the capital programme – if sort then this will be reflected in future capital monitoring reports.

- 11.4 The report also requests approval of an increase of £3.2m for the Robert Clack expansion project from the currently available unallocated funding.
- 11.5 These allocations are fully grant funded and will have no additional financial implications for the Council. Any major risks, issues or overspending that become apparent will be monitored, managed and reported on as part of the Council's normal quarterly capital monitoring process.

## **12. Legal Implications**

Implications completed by: Lucinda Bell, Education Lawyer and Kayleigh Eaton, Senior Contracts and Procurement Solicitor

- 12.1 The Council, as an education authority, has a duty to promote high standards of education and fair access to education. It has a general duty to secure sufficient schools in the area, and to consider the need to secure provision for children with Special Educational Needs and Disabilities. These are collectively known as the school place planning duties. (Education Act 1996 and Children and Families Act 2014).
- 12.2 Any procurement carried out must comply with the Council's Contract Rules and where the contract is for goods, services or works which has a value in excess of the EU thresholds then the procurement must be carried out in accordance with the Public Contracts Regulations 2015.
- 12.3 In line with Contract Rule 50.15, Cabinet can indicate whether it is content for the Chief Officer to award the contract following the procurement process with the approval of Corporate Finance.
- 12.4 The report author and responsible directorate are advised to keep the Council's Legal team fully informed at every stage of the proposed tender exercises. The team will be on hand and available to assist and answer any questions that may arise

## **13. Other Implications**

### **13.1 Risk Management**

- 13.1.1 Risk that funding levels will not be sufficient to meet demand to create new education places needed.

This risk is high impact (4) and medium (3) probability = 12 red. This risk is being managed by purchasing the most affordable accommodation which is system build where possible. Post control the risk is high impact (4) and low (2) probability = 8 amber.

- 13.1.2 Risk that funding levels will not be sufficient to create suitable new school places. This risk is high impact (4) and high (4) probability = 16 red. This risk is being managed by purchasing the most affordable accommodation which is system build,

and blending it with site specific proposals. Post control the risk is high impact (4) and low (2) probability = 8 amber.

13.1.3 Primary and Secondary schools: risk that site availability would prevent delivery of school places in the areas where demand is highest.

This risk is high impact (4) and medium (3) probability = 12 red. This risk is being mitigated, as far as practicable, by expanding all available sites in high demand areas, and reviewing other buildings for potential school use. Post control the risk is still high impact (4) and medium (3) probability = 12 red.

13.1.4 Risk that the cost of the rate of deterioration of the school estate will outrun the funding available to maintain it.

This risk is high impact (4) and high (4) probability = 16 red. This risk is being mitigated as far as practicable by lobbying DfE for improvements in funding. Post control the risk is high impact (4) and medium (3) probability = 12 red.

13.1.5 The provision of school places is a matter which is directly identified in the Corporate Risk Register and listed at Corporate Risks 31 – Provision of School Places.

13.1.6 Risk that final costs will be higher than estimate costs.

This risk is high impact (4) and high (4) probability = 16 red. This risk is managed through monthly finance meetings and initial planning figures that architects and schools are asked to work within being set below the highest estimate to allow for unforeseen challenges.

**13.2 Contractual and Procurement Issues** - It is anticipated that projects will be procured through options related either to the Local Education Partnership or through the Council's Framework of Contractors or other national or local frameworks which are accessible to the Council to secure value for money.

13.2.1 Legal, procurement and other professional advice will be sought regarding the appropriate procurement routes and contractual agreements to procure and secure the individual projects. All procurement activity will be conducted in compliance with the Council's Contract Rules and EU Legislation. The procurement routes will be approved at Procurement Board who will consider a report from Education Commissioning about a procurement strategy based on a project basis. This will ensure that Value for Money is tested.

13.2.2 Projects will be subject to the Capital Appraisal Process and the agreement of the Procurement Board to progress schemes. However the Cabinet is asked to approve procurement principles as set out to avoid the need to report back to Cabinet as these procurements are either beyond our control or need to happen quickly within pressing timescales because pupils need to be accommodated.

**13.3 Staffing Issues** - There are no specific staffing issues although the growing demand for school places will create additional opportunities in schools for both teaching and non-teaching staff.

**13.4 Corporate Policy and Equality Impact** - The decision will assist the Council in fulfilling its statutory obligations to provide a school place for every child and support the intention of the Council's Vision and Priorities, including encouraging civic pride,

enabling social responsibility and growing the Borough. It is part of the mitigation of Corporate Risk 31 – Inability to Provide School Places.

The short-term impact of the recommendations for the coming year would be positive for customers on all counts of: race, equality, gender, disability, sexuality, faith, age and community cohesion. The longer term outlook is unlikely to be positive on the proposed funding levels as it will be difficult to address need on current budget levels.

- 13.5 Safeguarding Adults and Children** - Adoption of the recommendations in the short term would contribute to the Council's objectives to improve the wellbeing of children in the borough, reduce inequalities and ensure children's facilities are provided in an integrated manner, having regard to guidance issued under the Childcare Act 2006 in relation to the provision of services to children, parents, prospective parents and young people.
- 13.6 Health Issues** - The health and wellbeing board and JSNA highlight the importance of investing in early intervention and education to support children's and young people's long term wellbeing. The evidence and analysis set out in Fair Society, Healthy Lives (Marmot Review) has been developed and strengthened by the report of the Independent Review on Poverty and Life Chances. The reports draw attention to the impact of family background, parental education, good parenting and school based education, as what matters most in preventing poor children becoming poor adults. The relationship between health and educational attainment is an integral part of our Health and Wellbeing Strategy. At this point there is no need to change the focus of the Health and Wellbeing Strategy as a result of this report. Healthy Schools funding is to be welcomed.
- 13.7 Crime and Disorder Issues** - Appropriate consideration of the development of individual projects will take into account the need to design out potential crime problems and to protect users of the building facilities.
- 13.8 Property / Asset Issues** - This proposed decision would facilitate the improvement and renewal of Council assets.

#### **Public Background Papers Used in the Preparation of the Report:**

None.

#### **List of Appendices:**

**Appendix 1** – Strategy for Ensuring Sufficient School Places and School Modernisation through to 2027.

**Appendix 2** - Future Planning Programme to meet Basic Need (including SEN places) 2019 to 2027.

## Strategy for Ensuring Sufficient School Places and School Modernisation through to 2027 – Revised June 2019

### Introduction

1. Barking and Dagenham is striving to develop excellence throughout our educational provision. We are driving forward standards at all Key Stages. To support improvement in the educational offer and to meet the rapidly accelerating demand for school places (Basic Need including SEND places) at all ages we need to review and address school building capacity and condition as well as suitability (modernisation).
2. This document outlines our strategy and Future Planning Programme to meet Basic Need (including SEND places) over the next 5/6 years. The programme is outline only and must remain flexible since needs and available resources are constantly shifting, we need to respond quickly to any additional financial resources that may be provided by Central Government. Decisions regarding actual proposals will always be agreed through Council decision making processes: but this document sets out a framework for making those decisions, which will be reviewed at 6 month intervals to address the Borough's rapidly changing demographics.
3. Neither the Basic Need nor the Condition figures are high enough to provide for long term robust facilities. Optimising value for money is therefore essential, including where practicable joining up funding streams.

### Basic Need

4. We shall continue to lobby for the additional funds required to meet Basic Need (including SEND).
5. We will also bid for all available funding streams using them to match to our strategy as closely as possible, whilst meeting any funding criteria and gaining optimum value for money.
6. We will investigate innovative funding routes, and shall explore radical strategies and partnerships e.g. alternative sites and premises and alternative school providers (e.g. Free Schools) to optimise our use of available buildings and facilities to meet growing demand.
7. Our main strategy for developing new school places has been to develop on existing school sites, and to revitalise older school sites bringing them back into use as education facilities. It includes expanding schools onto additional sites.
8. This practice, it has always been felt, has brought benefits of economies of scale as existing primary schools have been able to absorb the general administration and shared areas, halls etc. within the existing

provision. The programme sets out to mirror this practice for some secondary schools where this is possible.

9. Realistically the demand will require that we think more radically for the future and begin to create whole new sites and schools with the consequential financial impact. Creating things from new will obviously be more costly and may include site purchase costs, it also comes with greater risks.
10. The proposed programme is shown as an Appendix to this document, entitled Future Planning Programme to meet Basic Need (including SEN places) 2019 to 2029.

### **Condition and Suitability (Modernisation)**

11. In view of the pressing nature of the condition of many school buildings, consideration must be given to seeking and obtaining other sources of investment and funding, as far as practicable. The Asset Management Plan (AMP) for schools indicates a potential spend of £55m which has never been achieved. In practice, building systems eg boilers, lifts, electrical systems as well as building fabric are presenting significant annual problems which require urgent remedial work. In addition, Members have indicated schools and other Children's Services' buildings where they would wish to bring about improvements.
12. We need to ensure that in the absence of a funded planned maintenance programme, that we utilise the available Government Grant to ensure schools remain open.
13. In the light of the demise of former programmes to support the modernisation of schools agenda including BSF and Primary Capital Programme to support where possible building improvement, giving priority to Health and Safety matters but recognising there is a joint responsibility shared with the schools. This is wholly the schools responsibility where the school is a voluntary aided or free/academy school.
14. There are a number of schools in the Borough which need repairs to ensure that we avoid closures. The approach taken is to work in partnership with schools to jointly address the most pressing items.
15. The school building stock in Barking & Dagenham have a number of similar characteristics as many are of similar design and were constructed between the first and second wars last century (1920's - 1930's). As a consequence we have a number of schools in similar condition but also with issues around suitability.

This programme reflects the build planned and forecast opening. This data can change because of site availability and demand changes, and would be subject to negotiation with the school operator.

September 2019	Early Year Provision for 2 year olds	Primary	Secondary	Sixth Form	Special Needs Provision
	Places to be reviewed	Need 0 YrR places YrR Capacity 4137 Demand forecast 3687	Need 120 Yr7 places Yr7 Capacity 3450 Demand forecast 3360	Demand forecast 3292	SEND Places
	Provided by maintaining Ofsted inspection ratings of existing 'good' or 'outstanding' provision.	Provided 0 YrR places, capacity 4137	Greatfields Free School 3fe Yr7  Provided 90 Yr7 places, capacity 3450	No additional – to be reviewed through 6 <sup>th</sup> Form Review/Strategy	Barking Riverside Special (30 places per year for 5 years) – year 5  15 places SEMH provision (phase 2)
September 2020	Places to be reviewed	Need 0 YrR places YrR Capacity 4137 Demand forecast 3943	Need 0 Yr7 places Yr7 Capacity 3450 Demand forecast 3453	Demand forecast 3480	SEND Places
	Provided by maintaining Ofsted inspection ratings of existing 'good' or 'outstanding' provision.	Lymington Fields 3fe YrR (Robert Clack)  Mallard Primary 3fe YrR  Provided 180 YrR places, capacity 4317	Lymington Fields 6fe Yr7  Provided 180 Yr7 places Capacity 3633	No additional – to be reviewed through 6 <sup>th</sup> Form Review/Strategy	15 place SEMH Provision (phase 3)

**NB: Places indicating growth are build programme, the opening of new classes or new school facilities are determined by the need to respond to forecast demand in the year of opening.**

September 2021	<b>Early Years Provision for 2 year olds</b>	<b>Primary</b>	<b>Secondary</b>	<b>Sixth Form</b>	<b>Special Needs Provision</b>
	<b>Places to be reviewed</b>	<b>Need 0 Year R places YrR Capacity 4317 Demand forecast 4119</b>	<b>Need 0 Yr 7 places Yr7 Capacity 3633 Demand forecast 3636</b>	<b>Demand forecast 3787</b>	<b>SEND Places</b>
	Provided by maintaining Ofsted inspection ratings of existing 'good' or 'outstanding' provision.	New Free School Dag Beam Park Primary 3fe YrR  Greatfieds Primary School 3fe YrR places  <b>Provided 180 YrR places, capacity 4497</b>	New Free School East Dagenham 4fe Yr7 Beam High  Warren 2fe yr7  <b>Provided 180 Yr7 places, capacity 3813</b>	<b>No additional – to be reviewed through 6<sup>th</sup> Form Review/Strategy</b>	Planned growth over 5 years to be reported in Summer 2019 following review.
September 2022	<b>Places to be reviewed</b>	<b>Need 0 YrR places YrR Capacity 4497 Demand forecast 4125</b>	<b>Need 0 Yr 7 places Yr7 Capacity 3813 Demand forecast 3780</b>	<b>Demand forecast 4060</b>	<b>SEND Places</b>
	Provided by maintaining Ofsted inspection ratings of existing 'good' or 'outstanding' provision.	<b>Provided 0 YrR places, capacity 4497</b>	New free school East Dagenham 6fe Yr7 Beam High  <b>Provided 180 Yr7 places, capacity 3993</b>	<b>No additional – to be reviewed through 6<sup>th</sup> Form Review/Strategy</b>	New SEND School for up to 160 places to open gradually over to next 5 years
September 2023	<b>Places to be reviewed</b>	<b>Need 0 YrR places YrR Capacity 4497 Demand forecast 4112</b>	<b>Need 0 Yr 7 places Yr7 Capacity 3993 Demand forecast 4005</b>	<b>Demand forecast 4362</b>	<b>SEND Places</b>
	Provided by maintaining Ofsted inspection ratings of existing 'good' or 'outstanding' provision.	3 <sup>rd</sup> Barking Riverside Primary  <b>Provided 90 YrR places, capacity 4587</b>	New Free School – Thames View – 120 Yr7 places  <b>Provided 120 Yr7 places, capacity 4113</b>	<b>No additional – to be reviewed through 6<sup>th</sup> Form Review/Strategy</b>	

September 2024	Early Years Provision for 2 year olds	Primary	Secondary	Sixth Form	Special Needs Provision
	<b>Places to be reviewed</b>	<b>Need 0 YrR places YrR Capacity 4587 Demand forecast 4111</b>	<b>Need 0 Yr7 places Yr7 Capacity 4113 Demand forecast 4064</b>	<b>Demand forecast 5122</b>	<b>SEND Places</b>
	Provided by maintaining Ofsted inspection ratings of existing 'good' or 'outstanding' provision.	Barking Central 3fe YrR  <b>Provided 90 YrR places, capacity 4677</b>	New Free School – Thames View – 60 Yr7 places  <b>Provided 60 Yr7 places Capacity 4173</b>	<b>No additional – to be reviewed through 6<sup>th</sup> Form Review/Strategy</b>	
<b>September 2025</b>	<b>Places to be reviewed</b>	<b>Need 0 YrR places YrR Capacity 4677 Demand forecast 4144</b>	<b>Need 0 Yr 7 places Yr7 Capacity 4173 Demand forecast 4064</b>	<b>Demand forecast 5380</b>	<b>SEND Places</b>
	Provided by maintaining Ofsted inspection ratings of existing 'good' or 'outstanding' provision.	To be planned when housing details are clarified  <b>Provided 0 YrR places, capacity 4677</b>	To be planned when housing details are clarified  <b>Provided 0 Yr7 places Capacity 4173</b>	<b>No additional – to be reviewed through 6<sup>th</sup> Form Review/Strategy</b>	
<b>September 2026</b>	<b>Places to be reviewed</b>	<b>Need 0 YrR places YrR Capacity 4677 Demand forecast 4184</b>	<b>Need 0 Yr 7 places YrR Capacity 4173 Demand forecast 4064</b>	<b>Demand forecast 5412</b>	<b>SEND Places</b>
		To be planned when housing details are clarified  <b>Provided 0 YrR places, capacity 4677</b>	To be planned when housing details are clarified  <b>Provided 0 Yr7 places Capacity 4173</b>	<b>No additional – to be reviewed through 6<sup>th</sup> Form Review/Strategy</b>	

September 2027	Early Years Provision for 2 year olds	Primary	Secondary	Sixth Form	Special Needs Provision
	Places to be reviewed	Need 0 YrR Places YrR Capacity 4677 Demand forecast 4270	Need 0 Yr 7 Places YrR Capacity 4173 Demand forecast 4064	Demand forecast 5480	SEND Places
		To be planned when housing details are clarified  Provided 0 YrR places, capacity 4677	To be planned when housing details are clarified  Provided 0 Yr7 places Capacity 4173	No additional – to be reviewed through 6 <sup>th</sup> Form Review/Strategy	

**CABINET****16 July 2019**

<b>Title:</b> Adoption of Gambling Licensing Policy 2019 – 2022	
<b>Report of the Cabinet Member for Enforcement and Community Safety</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected: All</b>	<b>Key Decision:</b> Yes
<b>Report Author:</b> Theo Lamptey, Service Manager, Public Protection	<b>Contact Details:</b> Tel: 020 8227 5655 Email: <a href="mailto:theo.lamptey@lbbd.gov.uk">theo.lamptey@lbbd.gov.uk</a>
<b>Accountable Director:</b> Andy Opie, Operational Director of Enforcement	
<b>Accountable Strategic Leadership Director:</b> Fiona Taylor, Director of Law and Governance and HR	
<p><b>Summary</b></p> <p>The Council, as the local licensing authority for gaming and betting, is required under the Gambling Act 2005 to have in place a statement of the principles (a ‘policy’) by which it will abide in carrying out its licensing responsibilities. Once established, the Council’s policy may be reviewed at any time but must be reviewed in accordance with a statutory three-year cycle. All changes to the policy must be subject to a public consultation.</p> <p>The Council first published a gambling licensing policy in 2007 and as the Gambling Act 2005 dictates that it must be reviewed every three years, a further review is now due in order to keep the Council’s policy in line with the statutory review cycle. The reason for a statutory review period of the statement of licensing policy is to ensure it remains relevant and reflects changes in gambling activity.</p> <p>The Council’s Statement of Gambling Licensing Policy was the subject of a full detailed mid-term review in 2017, which intended to refresh the Council’s position on gambling licensing and ensure consistency with all relevant statute, codes and guidance.</p> <p>Given that the policy was only the subject of a full review in 2017, only minimal changes are proposed. These are considered necessary in order to reflect the latest developments in gambling licensing. This report details each of the revisions and provides a copy of the draft revised Barking and Dagenham Statement of Gambling Licensing Policy for the period 2019- 2022, for consideration at Appendix A.</p> <p>The 2017 Statement of Gambling Policy has been made to reflect the changes in stakes for category B2 machines that came into effect in April this year, and other two additions have been made, one to reflect best practice as recommended by the Gambling Commission in relation to the content of plans submitted with new applications, and the other advice to those completing risk assessments for submission with applications.</p>	

## **Recommendation(s)**

The Cabinet is asked to recommend the Assembly to adopt the revised Statement of Gambling Licensing Policy 2019-2022, as set out in Appendix A of the report.

## **Reason(s)**

To ensure that the Council's Statement of Gambling Policy complies with section 349 of the Gambling Act 2005 to review and publish the revised gambling licensing policy every three years.

### **1. Introduction and Background**

- 1.1 The Gambling Act 2005 ('the Act') established the national licensing regime for gaming and betting (except the national lottery).
- 1.2 The Act provides a two-tier licensing system. The Gambling Commission is responsible for licensing both gambling operators and key industry personnel. Local licensing authorities are responsible for licensing the premises in their area where gambling activities are intended to be provided.
- 1.3 The statement of policy aims to set out how the licensing authority intends to approach its licensing responsibilities under the Act.
- 1.4 In carrying out its licensing functions, the Authority is directed by s153 of the Act to, in so far as it thinks fit, aim to permit the use of premises for gambling:
  1. In accordance with any code of practice issued by the Gambling Commission;
  2. In accordance with any relevant guidance issued by the Gambling Commission;
  3. In a manner which is consistent with the licensing objectives; and
  4. In accordance with the licensing authority's own statement of policy.
- 1.5 The three licensing objectives stated in the Act are set out below. Local licensing authorities are mainly concerned with the first and third objectives:
  - Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime;
  - Ensure gambling is conducted in a fair and open way; and
  - Protecting children and vulnerable people from harm or from being exploited by gambling.
- 1.6 This report details the proposed revisions to the policy and the reasons why these changes are being made. It also explains the consultation process.

### **2. Proposal and Issues**

#### **The current Barking and Dagenham Statement of Gambling Licensing Policy 2019-2022**

- 2.1 At the time of the previous revision of the policy, many local licensing authorities, including this Authority, had held long standing concerns over the directed and

restricted nature of the gambling licensing regime. It was believed that this directed approach had prevented licensing decisions from properly addressing local circumstances and that this, in turn, had led to:

- Frustration within local licensing authorities over lack of discretion;
- A perceived uncontrolled growth in gambling establishments, particularly betting shops driven by their ability to install up to 4 x category B £500 jackpot Fixed Odds Betting Terminals (FOBTs);
- The perceived concentration of betting shops in high street locations in more deprived areas;
- Concern that vulnerable people were being targeted and exploited; and
- Concern that children were being regularly exposed to gambling and gambling becoming 'normalised'.

2.2 As a result of this situation, an analysis of the impacts of gambling related harm within the Borough was conducted using spatial analysis techniques drawing on published, relevant and reliable socio-economic, public health and anti-social behavior data sets. The analysis was used to develop a 'local area profile' i.e. a model of local area vulnerability to gambling related harm which now supports and informs the Council's policy. The analysis can be accessed via: <https://www.lbbd.gov.uk/sites/default/files/attachments/Gambling-related-harm-risk-assessment.pdf>

2.3 In the light of the findings of the analysis, the existing policy made a number of important statements:

- That the Council considers it necessary to limit facilities for gambling in areas where its most vulnerable residents may be placed at increasing risk;
- That areas where there is high overall risk of gambling related harm are inappropriate for further gambling establishments; and
- That operators are asked not to consider locating new premises or relocating existing premises within such areas.

2.4 The existing policy goes on to set out in some detail the considerations this Council would have when determining applications for licensed gambling premises and to detail the types of management controls the Council may expect to see in place at such establishments.

2.5 It remains the case that each application is required by law to be considered upon its own merits and so the policy may not set out to refuse all future licence applications. However, it looks to establish a framework which best places the Council to make future licensing decisions which take into account local information and address local circumstances and concerns.

### **The draft revised Barking and Dagenham Statement of Gambling Policy 2019 – 2022**

2.6 A copy of the draft revised Barking and Dagenham Statement of Gambling Licensing Policy for 2019-2022 is attached at Appendix A. Four new paragraphs have been added to the policy. These are detailed from paragraph 2.10 onwards. Two additions relate to the forthcoming changes to stakes in B2 machines, they are as follows:

## **Changes to the controls over category B2 machines**

- 2.7 Since the last policy was drafted and adopted, the Government has announced that the maximum stake permissible in category B2 machines (FOBTs) would reduce from £100 to £2. This was implemented from April 2019. These machines can only be located within betting shops and are restricted to a maximum number of four per shop. The future implications of this change on the number and clustering of betting shops are as yet unclear, but it is considered important to acknowledge this in the policy. Industry estimates suggest that it is likely, over a period to result in a reduction of the number of betting shops, especially in areas where ‘clustering’ has been experienced. It may be that reductions will not be experienced until current leases are due for renewal.

As a result, two changes to the policy are proposed as follows:

1. Executive summary – ninth paragraph, page 4 – The following text is added:  
*“This authority recognises that the significant reduction in maximum stakes for category B2 machines from April 2019 may increase the potential for significant changes to occur during the life of this policy.”*
2. Section 119, page 32 – The following paragraph is added:  
*“It is recognised that from April 2019 the maximum stake of category B2 machines (fixed odds betting terminals) was reduced from £100 to £2. A re-assessment of the risks posed by gaming machines is likely to be appropriate for future iterations of this policy, but it is not appropriate at the current time as the full implications of this change are unclear in advance of the implementation of the change.”*

## **Preparation of individual premises risk-assessments**

- 2.8 Applicants for each category of gambling premises licences are required to review the content of the local area profile incorporated within the Council’s policy and address the concerns raised within their local business risk-assessments by way of appropriate proactive mitigation and control measures. Applicants are asked to provide a copy of their local business risk- assessment as part of their application.

Experience has shown that staff working in gambling premises often have significant insight into the local area where they work and their input to the risk-assessment process can add significant value to the process. It is therefore being recommended as part of this review that they are involved in local risk assessments:

Section 43, page 16 – the following paragraph has been added:  
*“It is recommended that those preparing the local risk assessment seek the views of staff working in the premises. They may well possess knowledge based on their daily presence in the locality and may also be local residents with detailed local knowledge. Experience shows that shop staff, when asked to read the completed risk-assessment often do not recognise the description of the area portrayed within the risk-assessment.”*

## **Premises plans submitted as part of the application process**

- 2.9 The Gambling Commission, in their published guidance for local licensing authorities, (S.7.44 – 7.47) recommend a higher level of detail be shown on premises plans submitted as part of the new licence application process, in order to help ensure appropriate supervision of premises.

Section 58, page 20 – a new paragraph is added

*“Notwithstanding the requirements of The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulation 2007, relating to the content of submitted plans, this authority believes that in order to be satisfied that the requirements of S.153 are being met, especially social responsibility codes, more detail is required, with the locations of gaming machines and self-service betting terminals marked on the plan. This view is supported in the national guidance issued by the Gambling Commission (S.7.44). Accordingly, for any new premises licence application or variation application this level of detail will be required. Any plan submitted without this information will be returned to be corrected, thus potentially delaying the issue of any licence.”*

### **3. Consultation**

- 3.1 The revised draft policy was subject to a public consultation exercise for six weeks between 27 May and 5 July 2019. Details were sent to representative groups of the Gambling industry and all gambling premises in the borough. The revised policy was also presented to the Licensing and Regulatory Committee on 1 May 2019 and it was agreed to proceed with public consultation. At the time of preparation of this report two responses had been received, one from a trade body and one from an individual betting operator. Neither had any comments about the proposed changes, as set out in this report. Any further responses received will be presented with this report.

### **4. Financial Implications**

Implications completed by Katherine Heffernan, Head of Service Finance

- 4.1 There are no financial implications arising directly from this report.

### **5. Legal Implications**

Implications completed by Dr Paul Field, Senior Corporate Governance Lawyer

- 5.1 The legal implication of the revised Gambling Licensing Policy is set out in the body of this report.

### **Public Background Papers Used in the Preparation of the Report:**

Gambling Commission Guidance to licensing authorities, 5<sup>th</sup> edition, revised September 2016

### **List of appendices:**

Appendix A – Draft Statement of Gambling Licensing Policy 2019 – 2022

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London Borough of Barking & Dagenham

Gambling Act 2005

# Statement of Gambling Licensing Policy 2019-2022

## Notes

The Gambling Act 2005 (“the Act”) came into force in 2007. It introduced a new, comprehensive system for gambling regulation in Great Britain, bringing together the vast majority of commercial gambling into a single regulatory framework.

The Act established a dedicated national regulator in the form of the Gambling Commission “the Commission”. But it also recognised the potential local impact and importance of gambling. So, it created many local regulators whose job it is to manage gambling within their area, in line with local circumstance. These are the 380 licensing authorities of England, Wales and Scotland. In doing so, the Act established a strong element of local decision-making and accountability in gambling regulation.

As licensing authority for the London Borough of Barking and Dagenham, this Council is required under s.349 of the Act to prepare and publish, every three years, a statement of the licensing principles it proposes to apply in exercising its functions under the Act. This is commonly known as the statement of licensing policy. The statement of policy can be reviewed and revised by the Council at any time, but must be produced following consultation with those bodies and persons set out in s.349 of the Act.

The Barking and Dagenham Statement of Gambling Licensing Policy sets out how this Authority intends to exercise its functions under the Act, for the next three years. First published in 2007, this latest draft revision has been prepared having regard to the Act, secondary regulations, and the Commission’s Guidance to Local Licensing Authorities (5<sup>th</sup> Edition published September 2015 – updated 2016).

This policy was adopted by the full Council Assembly on XX 2019.

## Executive Summary

This Authority recognises that the gambling industry, across its many component parts, makes a significant contribution to the national economy and provides considerable job opportunities. It also recognises that gaming and betting provides a legitimate leisure activity, enjoyed by many people, and that the majority of people who gamble appear to do so without exhibiting any signs of problematic behaviour.

However, the Assessment of National Gambling Behaviour published by the Gambling Commission in August 2017 and prepared by NatCen Social Research states that 1.4% of gamblers were classed as 'problem gamblers' (0.8% of the population), with 6.4% of gamblers were classed as at risk (3.9% of the population). Gambling Commission Executive Tim Miller is quoted as stating that "Whilst overall problem gambling rates in Britain have remained statistically stable, our research suggests that in excess of two million people are at-risk or classed as problem gamblers, with very many more impacted by the wider consequences of gambling-related harm."

While a thriving gambling industry may be good for the economy, the success of the industry cannot be at the expense of families affected by problem gambling.

This Authority acknowledges that genuine efforts are being made to ensure that gaming and betting can take place in a socially responsible manner and that the industry itself contributes to this. Recent initiatives such as the national multi-operator self-exclusion scheme, which allows an individual to make a single request to self-exclude from the same type of the gambling within their area, and the continuing work on identifying harmful play on machines and mitigating this through intervention are wholly supported. However, as the Responsible Gambling Strategy Board acknowledge, many of the new initiatives have yet to prove their significance.

Gambling related harm is recognised as a 'co-morbidity' (i.e. one of a range of conditions existing in an individual that exacerbates pre-existing conditions and contributes toward a reduced life expectancy). It is often observed in people who suffer from poor mental health; stress or anxiety; substance misuse; and financial difficulties.

As such, it potentially extends beyond the individual through work and study, personal, financial legal and interpersonal circumstances and affects the community around the individual and local community services. The prevalence of problem gamblers based on the Health Survey for England 2012 indicates there could be in excess of 1,400 individuals who are problem gamblers within Barking and Dagenham.

The costs to society (i.e. the excess fiscal costs caused by people who are problem gamblers beyond those that are normally incurred otherwise by members of the public) are felt through health; housing and homelessness; unemployment; and imprisonment. Using the Health Survey as a basis the total excess costs in Barking and Dagenham could be anything up to £2.2 million.

For these reasons, this Authority has set out to establish a gambling licensing policy which recognises good industry practice and intends to support responsible operators but sets out to offer adequate protections to our local community.

Integral to this has been the analysis of gambling related harm which informs Section 3 of this policy. The analysis explored local area-based vulnerability to gambling related harm and, as such, provided both context to this policy and a 'local area profile'. This enables consideration to be given to local issues that must be addressed by local operators and to the extent to which any further development of a gambling offer within the borough may be appropriate. This authority recognises that with the impending significant reduction in maximum stakes for category B2 machines from April 2019 there is the potential for significant changes to occur during the life of this policy.

Section 3 of this policy sets out the considerations this Authority will go through in determining gambling premises licences. All new and current operators must have regard to this section when compiling local risk assessments and should make this section their starting point when absorbing the content of this policy.

Before this, the policy opens with a more general introduction to Barking and Dagenham (Section 1), followed by detail on the principles this Authority will rely on in fulfilling its licensing responsibilities (section 2).

Sections 4 (premises licences) and 5 (other consents) go on to set out in some detail, the steps that this and other responsible authorities would wish to see given appropriate consideration within risk assessments and operating schedules. It is intended to reflect and enhance industry good practice. This section is also intended to make clear certain aspects of the applications process for the benefit of all. This includes information on consultation, responsible authorities, interested parties and relevant objections.

Section 6 deals with enforcement matters, establishing how this Authority and partner service and external agencies intend to work collaboratively together, in a fair, transparent, open and consistent manner, to provide intelligent directed regulation.

Together, we hope to support a successful industry, which can offer enjoyable leisure activities without harm to our young and most vulnerable.

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## Section One – Introduction

### About Barking and Dagenham

1. The London Borough of Barking and Dagenham is located at heart of the Thames Gateway, just a 15-minute train journey from central London.
2. Barking and Dagenham has a small population, estimated to stand at around 209,000 by the GLA datastore, representing an increase of 7,000 from June 2015. However, the borough has a young population. The average age in Barking and Dagenham is 32.9 years of age, lower than the London average of 36 years. The 56,800 children (persons aged between 0 and 15) equate to 27% of the local population. Some 130,700 people of working age (aged between 16 and 64) which is 63% of the population and there are 20,900 people of retirement age (65 and over) reflecting 10% of the population. Barking and Dagenham also has a diverse, multi-cultural community. The borough's BME population represents 49.3% of the total population. Nigeria is the most common birthplace of residents from outside of the UK (4.7%) followed by India and Pakistan (2.3% each). 18.7% of residents do not have English as their first language <sup>1</sup>.
3. Barking and Dagenham has its challenges. Both male and female life expectancy (77.6 and 82.1 respectively) are below the London average. The numbers of people who have no qualifications (15.4%); who are unemployed (10.5%); and who are DWP benefits claimants (14.9%) are all above the London average <sup>2</sup>.
4. However, with a proud history of manufacturing, industrial excellence, strategic transport links and a location to major markets in the South East (and on to Europe), Barking and Dagenham has real potential and aspires to become a destination of choice, where people stay and feel welcome.
5. With its excellent road and rail links, Barking and Dagenham is one of London's best-connected boroughs. Connections are set to improve further with new transport links currently under construction and in the pipeline, all intended to support the capital's eastward growth.
  - Crossrail will operate from Chadwell Heath from 2019
  - The London Overground will be extended to Barking Riverside by 2020
  - A new C2C station will open at Beam Park in 2020
  - Proposals to improve the A13 are under active consideration
  - Plans for the new River Thames crossings serving east London are underway

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<sup>1</sup> LBBB Key demographic facts July 2016

<sup>2</sup> As above

6. The borough is increasingly a focus for house building. There are plans for over 35,000 new homes and 10,000 jobs over the next 20 years. Though house prices are rising much faster than the London average, the borough remains the cheapest in the capital.
7. As a legacy from Barking and Dagenham's involvement as a host borough in the London Olympics in 2012, there has been some significant investment in leisure, recreational and sporting facilities.
8. The borough has an incredible 530 hectares of green belt land, plus 25 parks and open spaces and tree lined streets.
9. A map of the geographic area comprising Barking and Dagenham is shown in Figure 1 on the following page.

### **Vision and priorities**

10. Our vision for the borough is "One Borough; One Community; No-One Left Behind".

#### **Our Priorities**

- **A New Kind of Council**
  - Build a well-run organisation
  - Ensure relentlessly reliable services
  - Develop place – based partnership
  
- **Empowering People**
  - Enable greater independence whilst protecting the most vulnerable
  - Strengthen our services for all
  - Intervene earlier
  
- **Inclusive Growth**
  - Develop our aspirational and affordable housing offer
  - Shape great places and strong communities through regeneration
  - Encourage enterprise and enable employment
  -
  
- **Citizenship and Participation**
  - Harness culture and increase opportunity
  - Encourage civic pride and social responsibility
  - Strengthen partnerships, participation and a place-based approach



Figure 1 – Map of Barking and Dagenham

## Section Two - Purpose and Scope of this Policy

### **The aim of the policy**

11. The aim of this policy is -

- To inform licence applicants how this Authority will make licensing decisions and how licensed premises are likely to be able to operate within its area
- To set out how the Authority intends to support responsible operators and take effective actions against irresponsible operators
- To inform local residents, business and licensed premises users, the protections afforded to the local community within the Act and by this Authority
- To support licensing decisions that may be challenged in a court of law.
- To reinforce to elected members on the Licensing and Regulatory Board, the powers available to the local authority as licensing authority

### **Local authority functions**

12. Under the Gambling Act 2005, this Authority is responsible for local gambling regulation. This statement of policy deals with the range of regulatory functions that fall to this Authority. These are –

- Licensing premises for gambling activities
- Considering notices given for the temporary use of premises for gambling
- Granting permits for gaming and gaming machines in clubs and miners' welfare institutes
- Regulating gaming and gaming machines in alcohol licensed premises
- Granting permits to family entertainment centres (FEC) for the use of certain lower stake gaming machines
- Granting permits for prize gaming
- Considering occasional use notices of betting at tracks
- Registering small society lotteries that fall below certain thresholds
- Setting and collecting fees.

### **The licensing objectives**

13. While carrying out its functions under the Act, particularly in relation to premises licences, temporary use notices and some permits, this Authority must have regard to the licensing objectives, as set out in section 1 of the Act. These are -

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring gambling is conducted in fair and open way

- Protecting children and other vulnerable people from harm or from being exploited by gambling

#### **Licensing authority discretion**

14. Licensing authorities have a broad discretion to regulate the local provision of gambling and the Act gives wide-ranging powers to do so. Those include the power:
  - To issue a statement of licensing policy, setting expectations about how gambling will be regulated in the local area
  - To grant, refuse and attach conditions to premises licences
  - To review premises licences and attach conditions or revoke them as a result
15. In exercising its functions under the Act, s.153 states that licensing authorities shall aim to permit the use of premises for gambling, in so far as it thinks it:
  - In accordance with any code of practice under s24
  - In accordance with any relevant guidance issued by the Commission under s.25
  - Reasonably consistent with the licensing objectives (subject to the above) and in accordance with the licensing authority's statement of licensing policy

#### **Limits on local authority discretion**

16. However, licensing authorities are subject to some specific constraints in exercising their functions. A licensing authority has no discretion to grant a premises licence where that would mean taking a course of action which it did not think accorded with the Guidance issued by the Commission, any other relevant Commission code of practice, the licensing objectives or the licensing authority's own statement of policy. In the unlikely event that a licensing authority perceives a conflict between a provision of a Commission code of practice or the Guidance issued by the Commission, and its own statement of policy or view as to the application of the licensing objectives, s.153 makes it clear that the Commissions' codes and guidance take precedence.
17. In addition, the Act makes specific references to factors that must not be considered by a licensing authority in exercising its functions under s.153
  - The expected demand for facilities (s.153(2))
  - Whether the application is to be permitted in accordance with law relating to planning or building (s.210(1))
18. Additionally, licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions.

19. This Authority also understands that moral or ethical objections to gambling are not a valid reason to reject applications for premises licences.

#### **Other considerations**

20. Licensing authorities should regulate gambling in the public interest.
21. While this statement of policy sets out a general approach to the exercise of functions under the Act, it does not override the right of any person to make an application and have that application considered on its own merits. Additionally, this statement does not seek to undermine the right of any person to make representations on an application or to seek a review of a licence where provision has been made for them to do so.
22. As far as is reasonably possible, this Authority will avoid duplication with other regulatory regimes.

#### **Consideration of planning permission and building regulations**

23. In particular, this Authority recognises that s210 of the Act prevents licensing authorities from taking into account the likelihood of the applicant for a premises licence obtaining planning permission or building regulations approval.
24. Equally, however, the grant of a gambling premises licence does not prejudice or prevent any decision or action that may be appropriate under planning or building control law.
25. Recent changes made to the Use Classes Order means that certain permitted development rights previously enjoyed by the likes of Betting Shops and Pay day loan companies have now been removed, meaning that planning permission for change of use is now required. Where this is necessary, this Authority does expect, applications for premises licences to be made for premises either with relevant planning permission in place or for applications for the relevant consents to be made concurrently.

#### **Human Rights Act 1998**

26. This Authority understands that the Secretary of State has certified that the Act is compatible with the European Convention on Human Rights. In considering applications, and taking enforcement action under the Act, this Authority will bear in mind that it is subject to the Human Rights Act 1998 and in particular:
- Article 1, Protocol 1 – peaceful enjoyment of possession. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest
  - Article 6 – Right to a fair hearing

- Article 8 – Respect for private and family life. In particular, removal or restriction of a licence may affect a person’s private life
- Article 10 – Right to freedom of expression

#### **Exchange of information**

27. S.29 of the Act enables the Commission to require information from licensing authorities, including the manner in which the information is compiled, collated and the form in which it is provided, providing that it:

- Forms part of a register maintained under the Act
- Is in the possession of the licensing authority in connection with a provision of the Act

28. S.350 of the Act allows licensing authorities to exchange information with other persons or bodies for use in the exercise of functions under the Act. Those persons or bodies are listed in Schedule 6 of the Act as:

- A constable or police force
- An enforcement officers
- A licensing authority
- HMRC
- The First Tier Tribunal
- The Secretary of State

29. In exchanging information, this Authority will act in accordance with the relevant legislation, including the Data Protection Act 1998. This Authority will also have regard to any Guidance to local licensing authorities issued by the Commission, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act. Where the law allows, this Authority will agree secure mechanisms to share information with other regulators about gambling premises to help target resources and activities and minimise duplication.

#### **Scheme of Delegation**

30. Table 1 (on the following page) sets out the scheme of delegation for this Authority.

31. The scheme of delegation is intended to support an effective and efficient licensing process, within which non-contested matters will be granted by authorised officers.

32. Where matters are subject of representations, officers will normally attempt to reach an agreed negotiated outcome through our conciliation process. This is offered to facilitate further discussion and save the time and costs associated with a public hearing. Conciliation may be attempted up to 24 hours before a hearing. If an agreed outcome, satisfactory to all concerned parties, cannot be reached then the matter will generally be determined by a sub-committee comprising three elected members of the Council’s Licensing & Regulatory Board.

<b>Table 1 – Delegation of decisions and functions</b>			
<b>Matter to be dealt with</b>	<b>Council Assembly</b>	<b>Licensing Sub-Committee</b>	<b>Officers</b>
Final approval of three-year policy	X		
Policy not to permit casinos	X		
Fee setting (where appropriate)	X		
Application for a premises licence		Where representations have been received and not withdrawn	Where no representations have been received or representations withdrawn
Application for variation of a premises licences		Where representations have been received and not withdrawn	Where no representations have been received or representations withdrawn
Application for transfer of a premises licence		Where representations have been received from the Commission	Where no representations have been received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations have been received or representations withdrawn
Review of a premises licence		X	
Application for a club gaming / club machine permit		Where objections have been made (and not withdrawn)	Where no objections have been made / objections have not been withdrawn
Cancellation of a club gaming / club machine permit		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

## Section Three – Local Area Profile

### Background

33. The Commission's Licence Conditions and Codes of Practice (LCCP) (version published in February 2015) formalised the need for operators to consider local risks.
34. Specifically, Social Responsibility Code 10.1.1 requires all applicants for licences and current premises licence holders to assess the risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks. When carrying out their risk assessments, licensees are required to take into account any relevant matters identified in the licensing authority's statement of policy.
35. Licensees are required to undertake a local risk assessment when applying for a new premises licence. The risk assessment should also be updated:
  - When applying for a variation of the premises licence
  - To take account of significant changes in local circumstances, including those identified in this Authority's statement of policy
  - When there are significant changes at the licensee's premises that may affect how local risks are managed

### The local area profile

36. As has been recognised by the Responsible Gaming Strategy Board, there is evidence that some groups in the population may be more vulnerable to gambling related harm. This not only applies to people on low incomes but also people who are less able to make reasoned decisions because of poor mental health or addiction. Children and young people may be particularly susceptible, as their youth and inexperience may make them more inclined to risk-taking behaviour and less able to manage the consequences of those decisions. Statistics indicate that some BME groups may also be vulnerable
37. To help support applicants and licence holders to better understand their local environment, an analysis of gambling related harm has been prepared as a 'local area profile'. A copy of the document is provided at Appendix E. By drawing on relevant and reliable published socio-economic and public health data sets together with local police data concerning anti-social behaviour, the local area profile uses special analysis techniques to provide a model of area-based vulnerability to gambling related harm across the borough.
38. Both current operators and potential new operators to the borough are asked to consider the detail provided carefully, and should have regard to both the overall summary map and the individual mapping provided in respect of each relevant data set.
39. The general introduction to Barking and Dagenham provided in Section One of this policy demonstrates that this borough is an improving borough. However, as can be readily seen

from the analysis provided under the local area profile, this Council's area compares poorly with its neighbours under the Index of Multiple Deprivation (IMD) 2015.

40. The assessment of the 37 separate indicators that make up the IMD indicates this borough is subject to widespread deprivation to which gambling related harm contributes.
41. This position gives rise to serious concerns of the impact of any further increase in the number of gambling premises may have for the most vulnerable and 'at risk' areas of the borough. This Authority considers that it is necessary to seek to strictly control the number of facilities for gambling in areas where its most vulnerable residents may be placed at increasing risk, and in line with the duty, to aim to permit gambling insofar as it is reasonably consistent with the pursuit of the licensing objectives. All areas shown within the local area profile as being at high overall risk of gambling related harm, are generally considered inappropriate for further gambling establishments, which would tend to raise the risk of gambling related harm to vulnerable people living in those areas. Operators are asked to consider very carefully whether seeking to locate new premises or relocating existing premises within these areas would be consistent with the licensing objectives.
42. Wherever the facilities are proposed, operators should consider, having regard to the individual mapping provided, each of the specific characteristics of their local area. Each premises' specific risk-assessment should recognise these and provide appropriate proactive mitigation or control measures.
43. This Council would also recommend that operators consider the following matters when making their risk-assessment.
  - Information held by the licensee regarding self-exclusions and incidences of underage gambling
  - Gaming trends that may reflect benefit payments
  - Arrangement for localised exchange of information regarding self-exclusions and gaming trends
  - The urban setting such as proximity to schools, commercial environment, factors affecting footfall
  - The range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
  - Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, or other street related disorder.
  - It is recommended that those preparing the local risk assessment seek the views of staff working in the premises, they may well possess knowledge based on their daily presence in the locality and may also be local residents with detailed local knowledge. Experience shows that shop staff, when asked to read the completed risk assessment often do not recognise the description of the area portrayed within the risk assessment.

44. The local area profile is intended to help facilitate constructive engagement between operators and licensees and a more co-ordinated response to local risks. The local area profile will be updated from time to time to ensure that the information contained within is current and relevant.
45. Licensees are required to share their risk assessment with the Authority when applying for a premises licence or for a variation of a licence, or otherwise at the request of the Authority, for instance during the course of a premises inspection conducted by authorised officers. This Authority asks that a copy of the relevant risk-assessment is kept available on the premises.

#### **How applications for premises licences will be assessed**

46. While it will continue to be the case that each application will be considered upon its own merits with all relevant matters – including the requirement to ‘aim to permit gambling’ where to do so is reasonably consistent with e.g. the licensing objectives – see paragraph 16 above - taken into account, this Authority will expect that each applicant for a licence will:
- Have had regard to the content of the local area profile and to the guidance and best practice advice provided within this document.
  - Have engaged in constructive discussion with the appropriate relevant responsible authorities where risks and concerns are raised
  - Be able to demonstrate that the risks raised within the local area profile, this policy and through representations have been adequately addressed by submitted operating schedules
  - To be reasonably consistent with the licensing objectives
47. This Authority may require additional information where appropriate.

#### **Factors it is likely the local authority will take into account in determining applications**

48. In considering applications for new licences; variations to existing licences and licence reviews, this Authority will be likely to take into account some or all of the following matters:
- The type of premises
  - The location of the premises
  - The proposed or current hours of operation of the premises
  - The configuration and layout of the premises
  - The nature of the local area, and the implications for the risk of gambling related harm, including where appropriate the recorded levels and types of crime and/or the levels of deprivation

- The extent to which the risk-assessment provided by the operator acknowledges and proactively deals with local concerns as raised under the local area profile contained within this policy
- Matters relating to children and young people
- Matters relating to vulnerable adults
- The level of control measures proposed
- Whether the application establishes high levels of management
- The compliance history of the premises management, if current
- The views of the responsible authorities
- The views of interested parties

49. This list is not exhaustive. Other relevant information will be considered, determined on a case by case basis.

### **Conditions**

50. All licences granted are subject to the mandatory and default conditions provided for by law. Where there are risks associated with a specific premises or class of premises, the licensing authority may consider it necessary to attach additional conditions.

51. Conditions may be attached to premises licences in a number of ways:

- Mandatory conditions established through the Act or secondary regulations
- Default conditions, which may be imposed upon a licence by the licensing authority under s.168 of the Act
- Conditions imposed upon licences by the local licensing authority under its discretion

52. Where its discretion has been engaged through the representations process, this Authority will impose conditions where it considers that it is necessary to do so to address relevant local circumstances. Conditions imposed by this Authority will be proportionate to the circumstances they are seeking to address. In particular, conditions will be:

- Relevant to the need to make a proposed building suitable as a gambling facility
- Directly related to the premises (including the locality and any identified local risks) and the type of licence applied for
- Fairly and reasonably related to the scale and type of premises
- Within the ability of the operator to comply
- Enforceable
- Reasonable in all other respects

### **Conditions that may not be attached to premises licences by licensing authorities**

53. This Authority notes that the Act sets out certain matters that may not be the subject of conditions.

- S.169(4) prohibits a licensing authority from imposing a condition on a premises licence which makes it impossible to comply with an operating licence condition
- S.172(10) provides that conditions may not relate to gaming machine categories, numbers, or method of operation
- S.170 provides that membership of a club or body cannot be required by attaching a condition to a premises licence
- S.171 prevents a licensing authority imposing conditions in relation to stakes, fees, winnings, or prizes.

### **Compliance with Commission Licence Conditions and Codes of Practice**

54. In considering the matter of conditioning of licences this Authority is aware of the content of the current version of the Commission's Licence Conditions and Codes of Practice (January 2017 effective from 1 April 2017). These may be viewed in full by visiting <http://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/LCCP/Licence-conditions-and-codes-of-practice.aspx>

55. The licence conditions and codes of practice apply to all new and existing licences, including any holder of a personal or operating licence issued under the Gambling Act 2005.

## Section Four – Premises licences

56. This policy statement does not set out to explain the process and procedure for applying for a premises licence, variation or transfer. Advice on such can be obtained directly from the licensing service (see contact details in appendix A). However, this policy statement does set out for the benefit of applicants and all other interested parties, some important matters that this Authority will have regard to when determining applications.

### Types of premises licences

57. In accordance with s.150 of the Act, premises licences can authorise the provision of facilities on:

- Casino premises
- Bingo premises
- Betting premises, including tracks and premises used by the betting intermediaries
- Adult gaming centre (AGC) premises (for category B3, B4, C and D machines)
- Family entertainment centres (FEC) premises (for category C and D machines)

### Applications

58. Applications for premises licences and club premises certificates must be made on the prescribed form (available from <https://www.lbbd.gov.uk/business/licenses-and-permits/gambling-licences-and-permits/gambling-premises-licence/overview/> ) and accompanied by:

- The prescribed fee
- The prescribed documents, namely a plan of the premises (ideally at 1:100 scale, unless otherwise agreed with the Authority)
- Notwithstanding the requirements of The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulation 2007, relating to the content of submitted plans, this authority believes that in order to be satisfied that the requirements of S.153 are being met, especially social responsibility codes more detail is required, with the locations of gaming machines and self-service betting terminals marked on the plan. This view is supported in the national guidance issued by the Gambling Commission (S.7.44). Accordingly, for any new premises licence application or variation application this level of detail will be required. Any plan submitted without this information will be returned to be corrected, thus potentially delaying the issue of any licence.

59. Applications must be completed in full and signed and dated. If an application is submitted incomplete it will not be processed.

60. Similarly, a licence application, and any licence subsequently issued, is not valid if the relevant 'application notices' have not been made. These include

- A notice placed outside the premises for 28 consecutive days in a place where it can be easily seen and read by passers by
- A public notice placed in a newspaper or newsletter of local relevance on at least one occasion within ten days of the application being made
- Notice provided to all of the relevant responsible authorities, including the Commission, with seven days of the application being made.

### **Responsible authorities**

61. Responsible authorities are public bodies that must be notified of applications and that are entitled to make representations to the licensing authority in relation to applications for, and in relation to, premises licences.

62. S.157 of the Act identifies the bodies that are to be treated as responsible authorities. They are:

- The licensing authority in whose area the premises is wholly or partly situated
- The Gambling Commission
- The Chief Officer of Police
- The fire and rescue authority
- The local planning authority
- The council's environmental health service
- A body designated in writing by the licensing authority, as competent to advise about the protection of children from harm
- HM Revenue and Customs
- Any other person prescribed by the Secretary of State

### **Body designated as competent to advise on the protection of children from harm**

63. This Authority has determined the local Safeguarding Children Board as the body competent to advise on the protection of children from harm.

64. The principles that this Authority has applied in designating the competent body are:

- The need for the body to be responsible for the area we cover
- The need for the body to be able to provide professional expert opinion
- The need to ensure accountability, through being answerable to elected members rather than any particular interest group

### **Interested parties**

65. S.158 of the Act defines interested parties. To accept a representation from an interested party, this Authority must take the view that the person:

- Lives sufficiently close to the premises to be likely to be affected by the authorised activities
- Has business interests that might be affected by the authorised activities
- Represents persons in either of these two groups

66. When determining whether a person 'lives sufficiently close to the premises' this Authority will take the following factors into account:

- The size of the premises
- The nature of the premises
- The distance of the premises from the location of the person making the representation
- The potential impact of the premises such as the number of customers, routes likely to be taken by those visiting the establishment
- The circumstances of the person who lives close to the premises. This is not their personal characteristics, but their interests which may be relevant to the distance from the premises

67. When determining whether a person has business interests that might be affected by the authorised activities this Authority will recognise that the 'demand test' from previous legislation does not apply and, therefore, that view that an application provides competition to an existing local business will not be considered sufficient reason for a representation. In establishing that a relevant business is likely to be affected, factors that are likely to be relevant include:

- The size of the premises
- The 'catchment' area of the premises, that is, how far people travel to visit the premises
- Whether the person making the representation has business interests in that catchment area that might be affected

68. Interested parties can be people who are democratically elected, such as councillors and MPs. Other representatives might include bodies such as trade associations, trade unions and residents' and tenants' associations. A school head or governor might act in the interests of pupils or parents and a community group might represent vulnerable people living near to the proposed premises.

69. Aside from democratically elected persons, this Authority will satisfy itself on a case by case basis that a person does represent interested parties, and will request written evidence to support this where necessary. A letter from the interested person being represented would be sufficient.

70. This Authority will only consider 'relevant' representations, i.e. representations that relate to the licensing objectives or to issues that are raised within this statement of policy. Any

representation that is considered to be 'frivolous' or 'vexatious' may be disregarded. Relevant considerations in interpreting these phrases may include:

- Who is making the representation and whether there is a history of making representations that are not relevant
- Whether or not it raises a 'relevant' issue
- Whether it raises issues that are specifically to do with the premises that are the subject of the application under consideration

### **Definition of premises & split premises**

71. This Authority notes that the Act defines 'premises' as including 'any place' and that s.152 of the Act prevents more than one premises licence applying to any place.
72. It is understood that there is no reason, in principle, why a single building could not be subject to more than one premises licence, provided the licences are issued in respect of different parts of a building that can be reasonably regarded as being different premises. However, this Authority will give very close attention to any application which proposes to sub-divide a single building or plot.
73. Whether different parts of premises can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the proposed division is likely to be a matter for discussion.
74. This Authority does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises. If the premises are located within a larger venue, this Authority will require a plan of the venue on which the premises should be identified as a separate unit.
75. Each application will be considered upon its own merits. However, in cases where this Authority considers that a proposal is intended to create separate premises with additional gaming machine entitlement and this impacts upon the licensing objectives, then this Authority will not automatically grant a licence even where the mandatory conditions relating to access between premises are observed.

### **Multi-activity premises**

76. This Authority will also take particular care in considering applications for multiple premises for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular,

- Premises must be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit
- Customers should be able to participate in the activity named on the premises licence

77. In determining whether two or more proposed premises are truly separate, this Authority will consider factors which could assist in making their decision, including

- Is a separate registration for business rates in place for the premises?
- Are the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

#### **Provisional statements and applications for premises licences requiring works or right to occupy**

78. A premises licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling will only be issued in relation to premises that the Authority can be satisfied are going to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. S204 of the Act provides for potential operators to apply for a provisional statement that he / she

- Expects to be constructed
- Expects to be altered; or
- Expects to acquire a right to occupy.

79. However, case law provides that operators may apply for a full premises licence in respect of premises which have still to be constructed or altered and licensing authorities are required to determine such applications on their merits. In such cases, this Authority will consider such applications in two stages:

- Firstly, whether as a matter of substance after applying the principles in s153 of the Act, the premises ought to be permitted to be used for gambling
- Secondly, in deciding whether or not to grant the application this Authority will need to consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place. This Authority is entitled to consider that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

### Standards of management

80. This Authority expects all licensed operators to strive to achieve the highest standards of premises management across all facilities for gaming and betting within Barking and Dagenham.
81. To this end, premises management are expected to have an excellent and in-depth knowledge of relevant gambling law and regulations, and be able to demonstrate a full understanding of the importance of social responsibility provisions and the need to provide adequate protection of children and vulnerable people.
82. All customer-facing staff in licensed premises should also have sufficient understanding and knowledge to recognise the indicators of problem gambling and take appropriate steps to deal with this; and to promote socially responsible gaming.
83. As working in gambling establishments can also carry risks for the staff involved, it is expected that adequate staffing provision is maintained at all times and that incidents of lone working especially late at night, should be minimised. All working practices should be covered by appropriate risk-assessments.
84. Additionally, a full record of all incidents, actions and interventions should be maintained at all times and made available for inspection at the premises. This Authority would also ask that operators support the Council and partner authorities by displaying healthy lifestyle information regarding such as alcohol consumption, local smoking cessation services and local support for mental health problems and debt advice, as and when this is made available.

### **The first licensing objective – Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

85. This Authority recognises that the Commission takes a lead role in preventing gambling from being a source of crime and will have investigated issues of suitability under the process for an Operators' Licence.
86. However, the location of a premises is an important factor when determining a premises licence application and so this Authority will pay particular attention to the location of gambling premises and the local level of crime. Where an area has high levels of organised crime, careful consideration will be given to whether it is appropriate for gambling premises to be located there and, if so, what conditions may be necessary to minimise the risk of crime.
87. However, operators should also be aware of and take into account, issues of lower level crime and anti-social behaviour.

88. Licensees will be expected to demonstrate that they have given careful and adequate consideration to this objective. In considering whether to grant a premises licence, this Authority will also give appropriate consideration to issues such as:

- The configuration, design, and layout of the premises, paying particular attention to steps taken to 'design out' crime
- The arrangements in place to control access
- Security arrangements within the premises, including whether CCTV is installed (or intended) and, if so, the standard of the CCTV and the positioning of cash registers
- Training provided to staff around crime prevention measures
- The level of staff intended to be provided at the premises, including whether door supervisors are employed
- The arrangements for age verification checks
- The provision of adequate sanitary accommodation
- Steps proposed to be taken to redress the recurrence of any historical crime and disorder issues
- Steps proposed to prevent anti-social behaviour associated with the premises, such as street drinking, litter, and obstruction of the highway
- The likelihood of any violence, public disorder, or policing problems if the licence is granted

89. The above list is not exhaustive. Reference will also be had to issues raised by the local area profile detailed in section three of this policy.

90. This Authority notes the distinction between disorder and nuisance in the case of gambling premises and that disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it.

#### **The second licensing objective – Ensuring that gambling is conducted in a fair and open way**

91. This Authority notes that the Commission does not expect licensing authorities to be dealing with issues of fairness and openness frequently, as these matters are likely to be subject to the provisions of the Commission-issued operator and personal licences.

92. However, any suspicion raised that gambling is not being conducted in a fair and open way will be brought to the attention of the Commission for appropriate action. Similarly, any concerns relating to fair trading legislation will be brought to the attention of Trading Standards.

#### **The third licensing objective – Protecting children and other vulnerable persons from being harmed or exploited by gambling**

**(a) Protecting children**

93. The third licensing objective refers to protecting children from being harmed or exploited by gambling. This generally means preventing children from taking part in gambling and for there to be restrictions on advertising so that gambling products are not aimed at children in such a way that makes them attractive (excepting category D machines).
94. Licensees and applicants will be expected to demonstrate that they have given careful and appropriate consideration to measures intended to protect children. In considering whether to grant a premises licence, this Authority will give appropriate consideration to issues such as:
- The location and supervision of entrances
  - Security measures at the premises including the installation and maintenance of CCTV
  - The provision of licensed door supervisors
  - Arrangements for age verification
  - Arrangements for segregation between gaming and non-gaming areas in premises where children are permitted
  - Arrangements for supervision of machine areas in premises where children are permitted
  - The provision of signage and notices
95. With limited exceptions, however, the intention of the Act is that children and young persons should not be permitted to gamble and should be prevented from entering premises which are adult-only environments. This Authority will consider whether staff will be able to adequately supervise the gambling premises to ensure this.
96. This Authority will also consider whether the structure or layout and configuration of a premises either inhibits adequate supervision of the premises or prohibits it. In such cases, an applicant for a licence should consider what changes are or might be required to mitigate this. Such changes might include:
- The positioning or relocation of staff or CCTV to enable direct lines of sight of entrances / machines
  - The use of floor walkers to monitor use of machines
97. The Commission's general licence conditions and associated codes of practice include requirements as part of Operating Licences that licensees must have and put into effect social responsibility policies and procedures designed to prevent under age gambling and monitor the effectiveness of these.
98. In order that this Authority may make a proper informed judgement as to the effectiveness of these policies and procedures, it is requested that copies of the relevant documentation

are submitted for consideration as part of any application for a new or varied premises licences. These will be considered upon their individual merits.

**(b) Protecting vulnerable adults**

99. The Act does not seek to prohibit groups of adults from gambling in the same way that it does children.

100. While the Commission does not seek to define 'vulnerable adults' it does, for regulatory purposes, assume that this group includes people who may gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental health needs, learning disability or substance misuse relating to alcohol or drugs.

101. The Commission's general licence conditions and associated codes of practice include requirements as part of Operating Licences that licensees must have and put into effect policies and procedures that promote socially responsible gambling. In particular, the codes of practice place responsibilities on licensees

- To make information readily available to customers on how to gamble responsibly and how to access information about, and in respect of, problem gambling
- For customer interaction where they have a concern that a customer's behaviour may indicate problem gambling
- To participate in the national multi-operator self-exclusion scheme
- To take all reasonable steps to refuse service or to otherwise prevent an individual who has entered a self-exclusion agreement from participating in gambling
- To take all reasonable steps to prevent any marketing material being sent to a self-excluded customer

102. In order that this Authority may make a proper informed judgement as to the effectiveness of these policies and procedures, it is requested that copies of the relevant documentation are submitted for consideration as part of any application for a new or varied premises licences. These will be considered upon their individual merits.

103. This Authority will also wish to understand the steps taken by the applicant to monitor the effectiveness of these policies and procedures.

**(c) Location**

104. Location of the premises has already been raised within this policy under the first licensing objective. However, location carries broader considerations that can potentially impact on each of the licensing objectives and beyond. That said this Authority recognises that betting shops have always been situated in areas of high population, where there are likely to be

high numbers of children nearby, and this is not of itself a problem where appropriate steps have been taken to minimise the risk of children being attracted to gambling.

105. This Authority will give careful consideration to any application in respect of premises that located in close proximity to

- Schools
- Parks, playgrounds and open spaces
- Stations and transport hubs where large numbers of children may be expected to congregate
- Leisure facilities, youth clubs and community centres
- Hostels or other accommodation for vulnerable children, young persons and adults
- Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.
- Faith premises and places of public worship (including churches, temples, mosques and other), which may tend to be frequented by children and/or vulnerable people.
- Areas that are prone to issues of youths congregating, including (but not limited to) for the purposes of participating in anti-social behaviour, activities such as graffiti / tagging, underage drinking etc.
- Recorded instances of attempted underage gambling

#### **Access to premises by children and young persons**

106. The Act restricts the circumstances under which children and young people may take part in gambling or be upon premises where gambling takes place as follows:

- Casinos are not permitted to admit anyone under 18;
- Betting shops are not permitted to admit anyone under 18;
- Bingo clubs may admit those under 18 but must have policies to ensure that they do not play bingo, or play category B or C machines that are restricted to those over 18;
- Adult gaming centres are not permitted to admit those under 18;
- Family entertainment centres and premises with a liquor licences (for example pubs) can admit under 18s, but they must not play category C machines which are restricted to those over 18;
- Clubs with a club premises certificate can admit under 18s, but they must have policies to ensure those under 18 do not play machines other than category D machines; and
- All tracks can admit under 18s, but they may only have access to gambling areas on days where races or other sporting events are taking place, or are expected to take place.

107. This Authority will expect applicants to offer their own proposals to help fulfil the licensing objectives. However, there are a range of general controls that this Authority together with the other responsible authorities would recommend:

- The use of proof of age schemes;
- The direct supervision of entrances to the premises and the machine areas;
- The installation of CCTV systems with the 31-day library of recording maintained;
- Provision of suitable notices / signage explaining admission restrictions; and
- Setting and publicising specific opening hours.

#### **Think 21**

108. All premises should operate a proof of age compliance scheme. This Authority recommends that any proof of age scheme should be based on the principles of 'Think 21' and should involve:

- Persons appearing to staff to be under the age of 21 attempting to enter the premises or take part in gambling activities should be required to produce valid age identification (comprising any PASS accredited card or passport or driving licence) before being admitted or being allowed to take part;
- The reinforcement of this practice by appropriate signage displayed at the entrance to the premises and upon the premises;
- All staff to be trained in the premises proof of age compliance scheme and records of the training given to be retained on the premises and made available for inspection by authorised officers;
- The use of an incident log book to record details of all age-related refusals. The log should be reviewed monthly by the nominated responsible member of staff and any actions taken recorded in the book and signed off by that member of staff. This log shall be retained on the premises and made available for inspection by authorised officers; and
- Where a CCTV recording system is installed inside the premises, it should be arranged so as to monitor each entrance and exit and the gaming areas. A library of recordings taken by the system shall be maintained for 31 days and made available to authorised officers upon request.

#### **Restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children**

109. This Authority notes that the Commission's Licence Conditions and Codes of Practice require all advertising of gambling products to be undertaken in a socially responsible manner. Advertising of gambling products should comply with the advertising codes of practice issued by the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) which apply to the form and media in which they advertise their gambling facilities or services. Licensees should also follow any relevant

industry code of practice on advertising, notably the Gambling Industry Code for Socially Responsible Advertising.

110. This authority understands that the following general principles apply to advertising:

- Must be legal and not misleading
- Must not encourage irresponsible or excessive gambling;
- Must take care not to exploit children and other vulnerable persons in relation to gambling activity; and
- Should not be specifically and intentionally be targeted towards people under the age of 18 through the selection of media, style of presentation, content or context in which they appear.

111. This Authority accepts that further conditions on this matter should not normally be necessary, but all issues of non-compliance with the code will be rigorously investigated and reported to the relevant authorities.

#### **Casinos**

112. S.166(1) of the Act states that a licensing authority may resolve not to issue casino premises licence. This Authority has not passed such a resolution but it is aware of the power to do so. Should this Authority decide in the future to pass such a resolution, this Statement of Policy will be updated. Any such decision must be taken by the full Council Assembly.

#### **Bingo**

113. A holder of a bingo licence is able to offer bingo in all its forms. Children and young persons are permitted in bingo premises, but may not participate in the bingo. As children and young persons may be present upon bingo premises, careful consideration will be given to protection of children from harm issues. Social responsibility (SR) code 3.2.5(3) states that 'licensees must ensure that their policies and practices take account of the structure and layout of their gambling premises in order to prevent under-age gambling'. Where category B or C machines are available for use, these must be separated from areas where children and young people are allowed.

114. To prevent a situation where a bingo premises licence is obtained primarily to benefit from the gaming machine entitlement that it provides, this Authority will wish to satisfy itself that bingo can be played in any premises for which such a licence may be granted. Scrutiny will be given to any application for a new licence in respect of any excluded area of existing premises.

115. In addition, young persons, aged 16 and 17, may be employed in bingo premises provided their duties are not connected with the gaming or gaming machines. This Authority

will not grant licences unless the applicant demonstrates how they intend to meet this licensing objective and identify appropriate measures they will take to protect young employees.

## Betting

116. The Act establishes a single class of licence covering betting, although there are two types of premises that require licensing. These are for 'off course' betting and track betting. Both are licensed by the local licensing authority. This section of the policy concentrates on 'off course' betting that takes place other than at a track and includes an entitlement to provide up to four gaming machines of category B2, B3, B4, C or D, and any number of betting machines.
117. This Authority has particular concerns over the use of the B2 Fixed Odds Betting Terminals (FOBTs) within betting shops. While it is appreciated that it is permissible for a betting operator to provide solely FOBTs as their allocation of gaming machines, the high prize, high stake gaming provided enables considerable sums of money to be spent in a very short period of time, which increases the risk of gambling related harm. An applicant will in each case be expected to demonstrate that they can offer sufficient facilities for betting alongside any gaming machine provision.
118. Where Fixed Odds Betting Terminals (FOBTs) are provided, these gaming machines should be located within direct line sight of the supervised counter. Information leaflets and posters shall be provided in close proximity to the location of any FOBTs. These should be aimed at customers / families / friends and provide information on how to identify signs of problem gambling and available pathways to advice and assistance (e.g. helpline numbers and online counselling services).
119. It is recognised that from April 2019 the maximum stake of category B2 machines (fixed odds betting terminals) will be reduced from £100 to £2. A re-assessment of the risks posed by gaming machines is likely to be appropriate for future iterations of this policy but is not appropriate at the current time as there the full implications of this change are unclear in advance of the implementation of the change.
120. Where the local area profile identifies any relevant local risk of gambling related harm, operators should consider additional protections for the vulnerable. These could include:
- Removing Automated Teller Machines (ATMs) from the betting office; and
  - Restricting FOBTs to account based play.
121. Licensed betting premises are only permitted to offer gambling facilities between 0700 and 2200 hours, unless the local authority has agreed an extension of operating hours. This Authority is also concerned that longer operating hours may attract the more

vulnerable, such as those who may be intoxicated or have gambling addictions. Consequently, this Authority is unlikely to grant any extension of operating hours unless it is satisfied that robust measures will be in place to protect the vulnerable.

122. Children and young persons are not permitted to enter licensed betting premises. Social Responsibility (SR) Code 3.2.7(3) in the Licence Conditions and Codes of Practice (LCCP) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent under-age gambling.
123. As per the Commission's Guidance, this Authority will wish to consider restricting the number and location of betting machines in respect of applications for betting premises licences. The council when considering the number/ nature/ circumstances of betting machines an operator wants to offer will follow the Gambling Commission's Guidance and take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines.
124. This Authority will also have regard to the local area profile set out in section three of this policy and to the risk-assessment compiled in response to it.

#### **Track betting**

125. S.353 of the Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place.
126. Tracks may be subject to more than one premises licence, as long as each licence applies to a specific area of the track. Children and young people are able to enter track areas when facilities for betting are provided on days when dog racing or horse racing takes place. This exemption does not extend to other adult only areas.
127. This Authority will expect an applicant to demonstrate that they will put suitable measures in place to ensure that children do not have access to adult-only gaming facilities.

#### **Adult gaming centres**

128. Adult gaming centres (AGCs) premises licences allow the holder of the licence to make gaming machines available for use on the premises. Persons operating an AGC must hold a gaming machines general operating licence from the Commission and must seek a premises licence from the licensing authority. The holder of an adult gaming centre premises licence that was issued prior to the 13<sup>th</sup> July 2011 is entitled to make available four category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever, is the greater. An AGC premises licence granted after the 13<sup>th</sup> July 2011 may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines.

129. Gaming machines provide a form of gambling which is attractive to children and AGC's will contain machines of a similar format to the Category D machines on which children are allowed to play. However, no-one under the age of 18 is permitted to enter an AGC and applicants must be aware of the location of and entry to AGC's to minimise the opportunities for children to gain access.

130. Because gaming machines provides opportunities for solitary play and immediate pay-outs, they are more likely to encourage repetitive and excessive play. The council in considering premises licences which include gaming machines will have particular regard to the third licensing objective in this respect.

131. The council will expect applicants to offer their own measures to meet the licensing objectives; however appropriate measures / licence conditions may cover issues such as:

- Proof of age schemes;
- CCTV;
- Entry control system;
- Supervision of entrances/ machine areas;
- Physical separation of areas;
- Location of entry;
- Notices/ signage;
- Specific opening hours;
- Self-barring schemes for individuals to bar themselves from premises; and
- Provision of information leaflets/ helpline numbers for organisations such as GamCare.

#### **Licensed family entertainment centres**

132. The Act creates two classes of family entertainment centre (FEC). This part of the policy concerns licensed FECs. Unlicensed FECs are dealt with in Section 5. Persons operating a licensed FEC must hold a 'gaming machine general operating licence (Family Entertainment Centre)' from the Commission and a premises licence from the relevant licensing authority. They are able to make category C and D gaming machines available.

133. This Authority may only grant a permit if satisfied that the premises will be wholly or mainly used for making gaming machines available.

134. Children and young persons are permitted to enter an FEC and may use category D machines. They are not permitted to use category C machines and it is a requirement that there must be clear segregation between the two types of machine, so that under-18s do not have access to them. Social Responsibility (SR) code 3.2.5(3) in the Licence Conditions and Codes of Practice (LCCP) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling. Mandatory conditions apply to FEC premises licences regarding

the way in which the area containing the category C machines should be set out, detailed in Appendix C.

135. In determining any application for a permit this Authority will have regard to the licensing objectives and will expect the applicant to show that there are policies and procedures in place to protect children from harm, relating not just from gambling but also wider child protection considerations, including the risk of child sexual exploitation. The efficiency of such policies and procedures will be considered on their merits. However, the Authority would anticipate these would include measures / training for staff on:

- Appropriate action regarding suspected truanting school children on the premises;
- Dealing with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises; and
- Staff training on the maximum stakes and prizes.

136. SR 3.2.5(2) requires operators to ensure that employees prevent access and challenge children or young persons who attempt use category C machines. It is strongly recommended that licensing authorities ensure that staffing and supervision arrangements are in place to meet this requirement both at application stage and at subsequent inspections.

#### **Premises licence reviews**

137. Requests for a review of a premises licence may be made by an interested party or a responsible authority, in which circumstances it is for this Authority to decide whether to carry out a review. By virtue of s.198, an application may, but need not, be rejected if the licensing authority thinks that the grounds on which the review is sought:

- Are not relevant to the principles that must be applied by the licensing authority in accordance with s.153, namely the licensing objectives, the Commission's codes of practice and this Guidance, or the licensing authority's statement of policy;
- Are frivolous;
- Are vexatious;
- 'Will certainly not' cause the licensing authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;
- Are substantially the same as the grounds cited in a previous application relating to the same premises; and
- Are substantially the same as representations made at the time the application for a premises licence was considered.

138. In addition, s.200 of the Act provides that licensing authorities may initiate a review in relation to a particular premises licence or a class of premises licence.

139. In relation to a class of premises, a licensing authority may review the use made of premises and the arrangements that premises licence holders have made to comply with licence conditions
140. A licensing authority may review any matter connected with the use made of a premises if:
- It has reason to suspect that premises licence conditions are not being observed;
  - The premises is operating outside of the principles set out in the licensing authority's statement of policy;
  - There is evidence to suggest that compliance with the licensing objectives is at risk; and
  - There is any other reason which gives cause to believe that a review may be appropriate, such as a complaint from a third party.
141. Any formal review would normally be at the end of a process of ensuring compliance by the operator(s) which might include an initial investigation by a licensing authority officer and informal mediation or dispute resolution. If the concerns are not resolved then, after a formal review, this Authority may impose additional conditions or revoke the licence.

## **Section 5 – Other consents**

142. The Act introduces a range of permits which are granted by licensing authorities, intended to provide a 'light touch' approach to low level ancillary gambling where stakes and prizes are subject to very low limits and / or gambling is not the main function of the premises.
143. This part of the policy considers the various permits that this Authority is responsible for issuing. Licensing authorities may only grant or reject an application for a permit. There is no provision for conditions to be set.

### **Unlicensed family entertainment centres**

144. Only premises that are wholly or mainly used for making gaming machines available may hold a uFEC gaming machine permit. This Authority may only grant a permit if satisfied that the premises will be used as an uFEC and if the chief officer of the police has been consulted on the application. As a result, it is generally not permissible for such premises to correspond to an entire shopping centre, airport, motorway service station or similar. Typically, the machines would be in a designated, enclosed area.
145. UFECs are able to offer category D machines only under a gaming machine permit. Any category D machines can be made available, although other considerations, such as fire safety and health and safety, may be taken into account.

146. In determining any application for a permit this Authority will have regard to the licensing objectives and may ask an applicant to demonstrate;

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs;
- That the applicant has no relevant convictions; and
- That employees are trained to have a full understanding of the maximum stakes and prizes.

147. The Authority will also expect the applicant to show that there are policies and procedures in place to protect children from harm, relating not just from gambling but also wider child protection considerations, including the risk of child sexual exploitation. The efficiency of such policies and procedures will be considered on their merits. However, the Authority would anticipate these would include measures / training for staff on:

- Appropriate action regarding suspected truanting school children on the premises; and
- Dealing with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.

#### **(Alcohol) Licensed premises gaming machine permits**

148. Premises licensed to sell alcohol for consumption on the premises, may automatically have 2 category C or D gaming machines. Operators only need to inform the local licensing authority.

149. This Authority may remove the automatic authorisation in respect of any particular premises in its area if:

- Provision of the machine is not reasonably consistent with the pursuit of the licensing objectives;
- Gaming has taken place on the premises that breaches a condition of s282 of the Act i.e. that
  - Written notice has been provided to the Authority
  - A fee has been paid
  - Any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with;
- The premises are mainly used for gaming; or
- An offence under the Gambling Act has been committed on the premises.

150. Where an operator wishes to have more than 2 gaming machines on their premises, a permit must be obtained. This Authority will consider each application based on the

licensing objectives; any Guidance issued by the Commission under s25 of the Act; and 'such matters as it thinks relevant', considered on a case by case basis.

151. This Authority will have particular regard to the need to protect children and vulnerable persons from harm or being exploited by gambling, or at risk of child sexual exploitation. This Authority will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18-year olds do not have access to the adult only gaming machines. As a minimum this Authority will expect that machines are situated in sight of the bar, or within the sight of staff that are able to adequately monitor that the machines are not being used by those under 18. Notices and signage may also assist. With regard to the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for customers who may have a gambling addiction, from organisations such as GamCare.
152. The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.

#### Temporary use notices

153. A Temporary Use Notice (TUN) may be used to allow premises such as hotels, conference centres or sporting venues to be used temporarily for providing facilities for gambling.
154. TUNs are controlled by s214-234 of the Act and the Gambling Act (Temporary Use Notices) Regulations 2007 and are subject to restrictions.
155. Currently, Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner.
156. This licensing authority, in considering applications for Temporary Use Notices, will consider whether gambling should take place, or should only take place with modifications to the TUN. In doing so, the licensing authority will consider:
- The suitability of the premises;
  - The location of the premises, paying particular attention to its proximity to any schools, hostels or other sensitive premises;
  - The CCTV coverage within the premises;
  - The ability of the premises to provide sufficient staff and/or licensed door supervisors for the notice period; and
  - Whether the premises or the holder of the operating licence have given the council any cause for concern at previous events in relation to the licensing objectives, the guidance issued by the Commission, the relevant code of practice or this statement of principles.

### Occasional use notices

157. S39 of the Act provides that where there is betting on a track for 8 days or fewer in a calendar year, betting may be permitted by an Occasional Use Notice (OUN) without the need for a premises licence. The intention is to allow licensed betting operators with appropriate permission from the Commission to use tracks for short periods for conducting betting, where the event upon which the betting is to take place is of a temporary, infrequent nature.
158. The process for OUNs is different from TUNs. This Authority has very little discretion within the OUN process, aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded.
159. This Authority will, however, consider the definition of a “track” and will require the applicant to demonstrate that they are responsible for the administration of the “track” or are an occupier, and therefore permitted to avail themselves of the notice.

### Prize gaming permits

160. “Prize gaming” is where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. Normally the prizes are determined by the operator before play commences. Prize gaming may take place without a permit in various premises. These are casinos, bingo halls, adult gaming centres, licensed and unlicensed family entertainment centres and travelling fairs.
161. Given that prize gaming will particularly appeal to children and young persons, this licensing authority will give particular weight to child protection issues. The applicant will be expected to set out the types of gaming that they are intending to offer and will also be expected to demonstrate:
- An understanding of the limits to stakes and prizes set out in regulations;
  - That the gaming offered is within the law; and
  - That clear policies exist that outline the steps to be taken to protect children from harm.
162. The council will only grant a permit after consultation with the chief officer of police. This will enable the licensing authority to determine the suitability of the applicant; the suitability of the premises in relation to their location; and issues about disorder.
163. While there are conditions set out in the Act with which the permit holder must comply, the council cannot attach conditions. The Act requires that:
- The limits on participation fees, as set out in regulations, must be complied with; and
  - All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the

day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played.

### **Club gaming and club machine permits**

164. Members clubs and Miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit or a club machine permit. Commercial clubs may apply for a club machine permit. The club gaming permit will enable the premises to provide gaming machines (three machines of categories B, C or D), equal chance gaming, and games of chance as set out in regulations. A club machine permit will enable the premises to provide gaming machines (three machines of categories B4, C or D).

165. A club must meet the following criteria to be considered a members' club:

- It must have at least 25 members;
- It must be established and conducted wholly or mainly for purposes other than gaming (unless the gaming is permitted by separate regulations);
- It must be permanent in nature;
- It must not be established to make a commercial profit; and
- It must be controlled by its members equally.

166. Examples of these include working men's clubs, branches of the Royal British Legion and clubs with political affiliations.

167. This Authority may only refuse an application on the grounds that:

- The applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- The applicant's premises are used wholly or mainly by children and/ or young persons;
- An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- A permit held by the applicant has been cancelled in the previous ten years; or
- An objection has been lodged by the Commission or the police.

168. There is also a "fast-track" procedure available under the Act for premises which hold a club premises certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which a council can refuse a permit are reduced. The grounds on which an application under this process may be refused are:

- That the club is established primarily for gaming, other than gaming prescribed under schedule 12;

- That in addition to the prescribed gaming, the applicant provides facilities for other gaming; and
- That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

169. There are statutory conditions on club gaming permits: that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## Section 6 – Small Society Lotteries

170. Under the Act, a lottery is unlawful unless it runs with an operating licence or is an exempt lottery. The Licensing Authority will register and administer small society lotteries (as defined). Promoting or facilitating a lottery will fall within 2 categories:

- licensed lotteries (requiring an operating licence from the Gambling Commission); and
- exempt lotteries (including small society lotteries registered by the Licensing Authority)

171. Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and these are:

- small society lotteries;
- incidental non-commercial lotteries;
- private lotteries;
- private society lotteries;
- work lotteries;
- residents' lotteries; and
- customer lotteries.

172. Societies may organise lotteries if they are licensed by the Gambling Commission or fall within the exempt category. This Authority recommends those seeking to run lotteries take their own legal advice on which type of lottery category they fall within. Guidance notes on small society lotteries, limits placed on them and information setting out financial limits can be found on the Gambling Commission web-site at:

<http://www.gamblingcommission.gov.uk/for-the-public/Fundraising-and-promotions/Fundraising-and-promotions.aspx>

173. Applicants for registration of small society lotteries must apply to the Licensing Authority in the area where their principal office is located. If application is wrongly made to this Authority the applicant will be informed as soon as possible and where possible, we will inform the other Licensing Authority.
174. Lotteries will be regulated through a licensing and registration scheme, conditions imposed on licences by the Gambling Commission, codes of practice and any guidance issued by the Gambling Commission. In exercising its functions with regard to small society and exempt lotteries, this Authority will have due regard to the Gambling Commission's guidance.
175. This Authority will keep a public register of all applications and will provide information to the Gambling Commission on all registered lotteries. As soon as the entry on the register is completed, the applicant will be informed. In addition, this Authority will make available for inspection by the public the financial statements or returns submitted by societies in the preceding 18 months and will monitor the cumulative totals for each, to ensure the annual monetary limit is not breached. If there is any doubt, the Gambling Commission will be notified in writing.
176. This Authority will refuse applications for registration if in the previous five years, either an operating licence held by the applicant for registration has been revoked, or an application for an operating licence made by the applicant for registration has been refused.
177. This Authority may also refuse an application for registration if in its opinion:
- The applicant is not a non-commercial society;
  - A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
  - Information provided in or with the application for registration is false or misleading.
178. Applicants must set out the purposes for which the Society is established and will be asked to declare that they represent a bona fide non-commercial society and have no relevant convictions. Further information may be sought from the Society.
179. Where this Authority intends to refuse registration of a Society, it will give the Society an opportunity to make representations and will inform the Society of the reasons why it is minded to refuse registration, and supply evidence on which it has reached that preliminary conclusion.
180. This Authority may revoke the registered status of a Society if it thinks that it would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. However, no revocations will take place unless the Society has been given the opportunity to make representations. The Society will be informed of the reasons

why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.

181. Where a Society employs an external lottery manager, it will need to satisfy itself that the manager holds an operator's licence issued by the Gambling Commission, and this Authority will expect this to be verified by the Society.

## Section 7 – Enforcement

### Good practice in regulation

182. The Legislative and Regulatory Reform Act 2006 places a legal duty on any person exercising a specified regulatory function to have regard to the statutory principles of good regulation in the exercise of the function. These provide that regulatory activities should be carried out in a way which is transparent, accountable, proportionate, and consistent and should be targeted only at cases in which action is needed.
183. This Authority will have full regard to these principles when carrying out any regulatory activity and to the requirements of the Regulators' Code. The purpose of the Code is to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on business.

### Enforcement policy

184. These principles are reflected within the Barking and Dagenham Regulatory Services' Enforcement Policy for 2016-2020, which was prepared in consultation with relevant stakeholders. The policy sets out the Council's approach to enforcement; through education, compliance and enforcement. These core standards cover all aspects of enforcement delivered by the Council. A copy of the enforcement policy may be obtained upon request to the licensing service (see contact details in appendix A).
185. As well as ensuring that all enforcement activity is proportionate, consistent, transparent and accountable, the policy also requires that activity is targeted primarily on those activities and premises which give rise to the most serious risks or where hazards are least well controlled. This will be informed by an intelligence led approach. Regard will also be had to the local area profile set out in this policy.
186. This risk-assessed approach will also be taken to inspections of premises, so as to ensure that high risk premises requiring greater levels of attention will be targeted while low risk premises will receive a lighter touch. Premises will be assessed on the basis of;

- The type and location of the premises;
- The past operating history of the operator;
- The confidence in management; or
- The arrangements in place to promote the licensing objectives.

187. Where appropriate, this Authority will work with other responsible authorities to promote the licensing objectives through enforcement. Compliance will be normally be sought through early engagement, mediation, education, and advice. In cases where this is not possible, officers will seek to achieve compliance through the most appropriate route having regard to all relevant matters. Regard will be had to primary authority directions, where appropriate.

188. When a decision of whether or not to prosecute is required then this Authority will follow the principal criteria from the Guidance in the Code for Crown Prosecutors which requires the two main tests to be considered:

- Whether the standard of evidence is sufficient for a realistic prospect of conviction; and
- Whether a prosecution is in the public interest.

## Appendix A – Contact details

### The Responsible Authorities

Responsible authority	Contact details
Licensing Department, London Borough of Barking and Dagenham	Barking Town Hall, 1 Clockhouse Avenue Barking, IG11 7LU Email: <a href="mailto:licensing@lbbd.gov.uk">licensing@lbbd.gov.uk</a>
Police Licensing	Licensing Department Tel 01708 779162 Email <a href="mailto:EastAreaEABCUMailbox-.B&amp;DLicensing@met.pnn.police.uk">EastAreaEABCUMailbox-.B&amp;DLicensing@met.pnn.police.uk</a>
Planning and Development Control	FAO Group Manager Planning Department, Barking Town Hall, 1 Town Square, Barking IG11 7LU Email: <a href="mailto:planning@lbbd.gov.uk">planning@lbbd.gov.uk</a>
Child Protection	FAO Children Safeguarding Child Protection Team, Barking Town Hall, 1 Clockhouse Avenue, Barking IG11 7LU Email: <a href="mailto:childrensafeguardinglegal@lbbd.gov.uk">childrensafeguardinglegal@lbbd.gov.uk</a>
Environmental Health	Noise and Environmental Protection Enforcement Services, Barking Town Hall, 1 Clockhouse Avenue, Barking IG11 7LU Email: <a href="mailto:environmentalprotection@lbbd.gov.uk">environmentalprotection@lbbd.gov.uk</a>
Gambling Commission	Victoria Square House, Victoria Square, Birmingham B2 4BP Email: <a href="mailto:info@gamblingcommission.gov.uk">info@gamblingcommission.gov.uk</a> Tel: 0121 230 6666
HM Revenue and Customs	Greenock Accounting Centre, Custom House, Custom House Quay, Greenock PA15 1EQ
London Fire Brigade	Team Leader for Barking and Dagenham Fire Safety Regulation – North, 169 Union Street, London, SE1 0LL Email: <a href="mailto:fsr-adminsupport@london-fire.gov.uk">fsr-adminsupport@london-fire.gov.uk</a>

## Appendix B - List of persons who were consulted in the preparation of this policy

### Statutory Consultees

- The chief officer of police for the authority's area
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act

### The above incorporated

- Responsible authorities and other relevant service providers
- Ward councillors
- Local licensed operators and relevant trades representative groups
- Publication on the authorities website

## Appendix C – Mandatory & Default Licence Conditions

### Mandatory conditions

#### A. All Premises

The following mandatory conditions apply to all premises licences:

- The summary of the terms and conditions of the premises licence issued by the licensing authority must be displayed in a prominent place on the premises
- The layout of the premises must be maintained in accordance with the plan that forms part of the premises licence
- Neither National Lottery products nor tickets in a private or customer lottery may be sold on the premises.

#### B. Bingo Premises

- A notice stating that no person under the age of 18 years is permitted to play bingo on the premises shall be displayed in a prominent place at every entrance to the premises.
- No customer shall be able to enter bingo premises directly from a casino, an adult gaming centre or betting premises (other than a track).
- Over 18 areas within bingo halls that admit under-18s must be separated by a barrier with prominently displayed notices stating that under-18s are not allowed in that area and with adequate supervision in place to ensure that children and young people are not able to access these areas or the category B or C machines. Supervision may be done either by placing the terminals within the line of sight of an official of the operator or via monitored CCTV.
- Any admission charges, the charges for playing bingo games and the rules of bingo must be displayed in a prominent position on the premises. Rules can be displayed on a sign, by making available leaflets or other written material containing the rules, or running an audio-visual guide to the rules prior to any bingo game being commenced.
- Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.

#### C. Betting Premises

- A notice shall be displayed at all entrances to the betting premises stating that no person under the age of 18 will be admitted. The notice should be clearly visible to people entering the premises.
- There must be no access to betting premises from other premises that undertake a commercial activity (except from other premises with a betting premises licence including tracks). Except where it is from other licensed betting premises, the entrance to a betting shop should be from a street (defined as including any bridge, road, lane,

footway, subway, square, court, alley or passage – including passages through enclosed premises such as shopping centres – whether a thoroughfare or not).

- Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming machine or self-service betting terminal (SSBT) in order to do so.
- No apparatus for making information or any other material available in the form of sounds or visual images may be used on the licensed premises, except where used to communicate:
  - Information about or coverage of sporting events, including information relating to betting on such events (and incidental information including advertisements)
  - Information relating to betting (including results) on any event in connection with which bets may have been affected on the premises.
  - Betting operator-owned TV channels are permitted.
- No music, dancing or other entertainment is permitted on betting premises. This includes any form of entertainment such as apparatus producing sound or visual images which do not fall within paragraph 19.15 or machines which do not come within the categories of machine explicitly allowed in betting premises under s.172(8) of the Act.
- The consumption of alcohol on the premises is prohibited during any time which facilities for gambling are being provided on the premises.
- The only publications that may be sold or made available on the premises are racing periodicals or specialist betting publications.
- A notice setting out the terms on which a bet may be placed must be displayed in a prominent position on the premises.

#### **D. Adult gaming centres**

- A notice must be displayed at all entrances to AGCs stating that no person under the age of 18 years will be admitted to the premises.
- There can be no direct access between an AGC and any other premises licensed under the Act or premises with a family entertainment centre (FEC), club gaming, club machine or alcohol licensed premises gaming machine permit. There is no definition of 'direct access' in the Act or regulations, although licensing authorities may consider that there should be an area separating the premises concerned, such as a street or cafe, which the public go to for purposes other than gambling, for there to be no direct access.
- Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.
- The consumption of alcohol in AGCs is prohibited at any time during which facilities for gambling are being provided on the premises. A notice stating this should be displayed in a prominent place at every entrance to the premises.

#### **E. Licensed family entertainment centres**

- The summary of the terms and conditions of the premises licence issued by the licensing authority under s.164(1)(c) of the Act must be displayed in a prominent place within the premises.
- The layout of the premises must be maintained in accordance with the plan.
- The premises must not be used for the sale of tickets in a private lottery or customer lottery, or the National Lottery.
- No customer shall be able to enter the premises directly from a casino, an adult gaming centre or betting premises (other than a track). There is no definition of 'direct access' in the Act or regulations, but licensing authorities may consider that there should be an area separating the premises concerned, such as a street or cafe, which the public go to for purposes other than gambling, for there to be no direct access.
- Any ATM made available for use on the premises must be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.
- Over-18 areas within FECs that admit under-18s, must be separated by a barrier with prominently displayed notices at the entrance stating that under-18s are not allowed in that area and with adequate supervision in place to ensure that children and young persons are not able to access these areas or the category C machines. Supervision may be done either by placing the terminals within the line of sight of an official of the operator or via monitored CCTV.
- The consumption of alcohol in licensed FECs is prohibited at any time during which facilities for gambling are being provided. A notice stating this should be displayed in a prominent position on the premises.

### **Default Licence Conditions**

#### **A. Bingo Premises**

- Bingo facilities in bingo premises may not be offered between the hours of midnight and 9am. However, there are no restrictions on access to gaming machines in bingo premises.

#### **B. Betting Premises**

- Gambling facilities may not be offered in betting premises between the hours of 10pm on one day and 7am on the next day, on any day.

## Appendix D – References

### **The Gambling Act 2005 -**

[http://www.legislation.gov.uk/ukpga/2005/19/pdfs/ukpga\\_20050019\\_en.pdf](http://www.legislation.gov.uk/ukpga/2005/19/pdfs/ukpga_20050019_en.pdf)

### **The Gambling Commission’s Guidance to Local Licensing Authorities (5<sup>th</sup> Edition – updated 2016) -**

<http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Guidance-to-licensing-authorities.aspx>

### **Gambling Commission Licence Conditions and Codes of Practice (April 2017) -**

<http://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/LCCP/Licence-conditions-and-codes-of-practice.aspx>

**Health Survey for England 2015** – Published by [NHS Digital](#) (formerly the NHS Information Centre). Chapter on Gambling commissioned by the Gambling Commission. Due for publication Spring 2017.

<http://www.gamblingcommission.gov.uk/news-action-and-statistics/Statistics-and-research/Levels-of-participation-and-problem-gambling/Levels-of-problem-gambling-in-England.aspx>

### **Barking and Dagenham Key Population and Demographic Facts 2016 -**

<https://www.lbbd.gov.uk/council/statistics-and-data/census-information/key-population-demographic-facts/>

**Human Rights Act 1998 -** <http://www.legislation.gov.uk/ukpga/1998/42/contents>

### **Data Protection Act -**

<https://www.gov.uk/data-protection>

### **The Legislative and Regulatory Reform Act 2006 -**

<http://www.legislation.gov.uk/ukpga/2006/51/contents>

### **Regulators’ Code**

<https://www.gov.uk/government/publications/regulators-code>

**Barking and Dagenham Enforcement Policy 2016 -** <https://www.lbbd.gov.uk/council/priorities-and-strategies/council-policies/regulatory-services-policies/regulatory-services-enforcement-policy/>

**CABINET****16 July 2019**

<b>Title:</b> London Counter Fraud Hub	
<b>Report of the Cabinet Member for Finance, Performance and Core Services</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
<b>Report Author:</b> Christopher Martin, Head of Assurance	<b>Contact Details:</b> Tel: 020 8227 2174 E-mail: <a href="mailto:Christopher.Martin@lbbd.gov.uk">Christopher.Martin@lbbd.gov.uk</a>
<b>Accountable Director:</b> Helen Seechurn, Director of Finance	
<b>Accountable Strategic Leadership Director:</b> Claire Symonds, Chief Operating Officer	
<p><b>Summary</b></p> <p>London Councils have a good record in investigating fraud and collaborating with others to enhance fraud prevention and detection but there is always the need to respond to technological developments. Innovation is important to fighting fraud, especially at a time of finite resources, and the use of smart analytics can improve the Council's ability to tackle fraudsters, thus prevent resources being taken away from delivering services to those who need them.</p> <p>The principles for maximising collaborative and smarter working through data sharing are behind the creation of the London Counter Fraud Hub (LCFH). This hub is intended to provide a powerful fraud detection solution, combining advanced data matching with intelligent analytics and local government counter fraud expertise.</p> <p>The hub has passed the initial proof of concept stage, with the involvement of four pilot authorities, and is being prepared for roll out to all London Councils. Unlike the National Fraud Initiative (NFI) it does not have a statutory basis that requires all authorities to provide their data, so a decision on whether to become a member of the hub is required from each Council.</p> <p>This report outlines the fraud prevention and detection opportunities that fraud hub membership brings, and an indication of the additional resources needed to realise the benefits of being a member.</p>	
<p><b>Recommendation(s)</b></p> <p>The Cabinet is recommended to:</p> <p>(i) Approve the Council's participation in the London Counter Fraud Hub as a participating authority through the collaborative contract let by the London Borough of Ealing and awarded to CIPFA Business Ltd, on the terms set out in the report;</p>	

- (ii) Authorise the Chief Operating Officer, in consultation with Cabinet Member for Finance, Performance and Core Services and the Director of Law and Governance, to enter into the contract and all other necessary or ancillary agreements including any future project expansion arrangements; and
- (iii) Authorise the provision of council data extracts to CIPFA for the purposes of preventing and detecting fraudulent or erroneous activity.

**Reason(s)**

To assist the Council in achieving its priority of “A New Kind of Council” through improved fraud detection arrangements.

**1. Background and Options Considered**

- 1.1 The London Counter Fraud Hub is one of the London Councils ‘London Ventures’ projects. After a compliant EU tender and two-year pilot phase, the project is ready to roll out across London.
- 1.2 Councils and third parties supply their data into a hub where it is analysed for fraud using advanced data analytics. The councils then get fraud alerts, delivered through a cloud-based case management system so that they can be investigated. The more councils put in their data, the more effective the hub is at finding fraud. The hub also learns from the results and gets better at finding fraud.
- 1.3 Testing was carried out by the 4 pilot authorities, Camden, Ealing, Islington, and Croydon. The results suggest that if all 33 boroughs were to sign up, in the first year of operation, London would save a net £15m (worst case) to £30m (best case) and recover circa. 1,500 council homes that are currently illegally sub-let. The fraud types the hub looks for are council tax single person discount, business rates, and housing. This range will expand once the hub is up and running.
- 1.4 The hub is supplied by CIPFA, in partnership with BAE Systems. The original contract was based on payment by results, but after listening to the pilots and other councils, the hub is now subscription based. The fees are £75k one-off joining fee plus an annual subscription of £90k for large authorities and £70k for small authorities. The GLA also contributes to support the council tax and business rates elements of the hub. The contract length is 7 years, and this is necessary because of the very large investment the contractor has to recoup.
- 1.5 The investment in technology was financed with private sector risk capital, and almost certainly could never have been achieved if councils had been asked to provide the capital themselves. However, to make the arrangement commercially viable, 18 of the 33 local authorities in London need to join. It is anticipated that the hub will expand over time to include authorities bordering London, housing associations, and other public sector bodies.
- 1.6 The project has a profile with Cabinet Office and MHCLG and is an opportunity to demonstrate that London is delivering data sharing and collaboration. The contract is monitored and managed by LB Ealing as the lead borough.

## 2. Fraud Risks addressed by the Hub

- 2.1 The national strategy for councils on fighting fraud, 'Fighting Fraud and Corruption Locally' recommends the use of data analytics as a tool for detecting and preventing fraud. Councils are vulnerable to fraudsters claiming discounts on services and local taxation that they are not entitled to, and it is estimated that the cost of fraud to local government is in the region of £2.1bn each year. Fraudsters are constantly revising and sharpening their techniques and local authorities need to do the same. Taking a tougher stance against fraudsters includes using technology to tackle cross boundary and organised fraud and corruption attempts, as well as addressing new risks. The hub has been developed to provide a response to the current and future threat of losses from fraud. The pilot focussed on three types of fraud perpetrated against councils: council tax single person discount fraud, business rates fraud, and council housing fraud.
- 2.2 The hub serves to increase the local tax base by removing fraudulently claimed discounts and reliefs (e.g. single person discount on council tax, small business rate relief), and, for business rates, additionally identifying property not yet in rating.
- 2.3 For authorities with housing, the hub will help to identify council housing that is potentially being fraudulently sub-let, making it available for homeless families. Based on the pilot results, in a full year of operation with all 33 boroughs the hub will potentially identify between 1,532 homes (worst case) or 2553 homes (best case). In comparison, in 2017/18 the NFI reported the recovery of 57 homes through its national data matching activity.
- 2.4 The council already successfully delivers counter fraud work in relation to these areas. These arrangements have successfully helped the authority to identify substantial amounts of fraud, as set out in quarterly reports to the Audit & Standards Committee. The hub will provide a further source of leads to follow up, leading in turn to the identification of more fraud.

## 3. Pilot results

- 3.1 The pilot, which was completed by Ealing, Croydon, Camden, and Islington, indicated the following results would be achieved for London:

<b>LCFH - breakdown of extrapolated savings by fraud type (best case) 33 Authorities</b>	<b>Year 1 Savings</b>	<b>Year 1 Valid Alerts</b>	<b>Year 2</b>	<b>Year 2 Valid Alerts</b>
Council Tax SPD	£16,398,550	48,437	£8,199,275	24,219
Housing	£10,798,678	2,553	£5,399,339	1277
Business Rates	£4,884,930	1,035	£2,442,465	518
<b>Total</b>	<b>£32,082,158</b>		<b>£16,041,079</b>	

<b>LCFH - breakdown of extrapolated savings by fraud type (worst case) 33 Authorities</b>	<b>Year 1 Savings</b>	<b>Year 1 Valid Alerts</b>	<b>Year 2</b>	<b>Year 2 Valid Alerts</b>
Council Tax SPD	£4,015,730	11,862	£2,007,865	5,931
Housing	£6,479,207	1,532	£3,239,603	766
Business Rates	£4,884,930	1,035	£2,442,465	518
<b>Total</b>	<b>£15,379,867</b>		<b>£7,689,933</b>	

*Notes:*

1. *Assumes all 33 London local authorities join.*
2. *All historic cases assumed to be identified in year 1, so year 2 activity is projected at 50% of year 1.*
3. *Best case and worst case extrapolated from 3 different test exercises – except for business rates where only one set of test results was available.*
4. *The pilot results came from processing live data, so fraud cases identified are additional to any counter fraud work already carried out by the pilot boroughs, although there was some overlap where fraud cases had been identified by the boroughs but not actioned.*
5. *Ignores effects of collection fund accounting.*

**4. Project history**

- 4.1 The funding for the procurement of the hub came from a grant awarded to the London Borough of Ealing (the lead authority) by the (then) Department for Communities and Local Government (£430,400).
- 4.2 In 2015 Barking & Dagenham signed a Memorandum of Understanding, signed by all London local authorities, making a non-binding commitment to the project.
- 4.3 The lead authority followed the Competitive Dialogue procurement route. The project commenced in 2014, and in July 2015, the procurement process was launched. By October 2015 following assessment of preliminary submissions three tenderers were selected to proceed. The first round of competitive dialogue took place in January 2016 after initial tender submissions were received. Tenderers were then asked to submit detailed solutions, and this led to a second round of dialogue, following which two bidders were shortlisted and invited to submit their final offers. A final round of competitive dialogue was held, leading to submission of best and final offers in June 2016.
- 4.4 The evaluation of the bids was carried out by a panel consisting of subject matter experts in areas including fraud, ICT, commercial issues and data management including council officers. The bid from CIPFA Business Ltd was ranked first in the evaluation, based on both the scores for quality and commercial elements.
- 4.5 The pilot commenced March 2017 and has now successfully concluded with all minimum contract standards achieved.

## **5. Consultation**

- 5.1 It is not considered that community consultation is required in this case. Consultation has been carried out with councils in London.
- 5.2 The proposals in this report were considered and endorsed by the Corporate Assurance Group at its meeting on 13 June 2019.

## **6. Financial Implications**

Implications completed by: Katherine Heffernan, Group Manager, Service Finance

- 6.1 The contract originally contained a payment by results commercial model. After listening to councils, this has now been changed to a subscription model.
- 6.2 The subscription charges will be:
- Joining fee (one off, to be paid on signing up) £75,000
  - Annual Subscription fee based on size: £70,000 for LBBD (Tier 2 size)
  - Discount for authorities with no housing

The full basic charge over the lifetime of the contract is therefore £565,000 and is the same as other similar sized boroughs. Larger 'tier 1' boroughs pay a higher annual subscription.

- 6.3 The above charges are on the basis that at least 18 boroughs sign up to the Hub, which has been achieved. The GLA also makes a direct contribution to paying for the hub in relation to council tax and business rates.
- 6.4 There is no allowance in the model for new fraud type development funding. Any development will be subject to further agreement with the contractor and additional charges.
- 6.5 This will be an additional cost to the Council. This has been included as part of the service demand growth in the Council's new MTFS. Savings achieved will support the Council's overall budget position and contribute to other savings programmes such as the Core Transformation.

## **7. Legal Implications**

Implications completed by: Kayleigh Eaton, Senior Contracts and Procurement Solicitor, Law & Governance

- 7.1 This report advises that a competitive dialogue procurement procedure was conducted by the London Borough of Ealing that complied with the Public Contracts Regulations 2015 (as amended) (PCR 2015) and Ealing's Contract Procedure Rules were followed.
- 7.2 Regulation 38 of the PCR 2015 permits contracting authorities such as the London Borough of Ealing to jointly procure services and on behalf of other named contracting authorities. The Council was one of those named parties and signed up to an MOU to make its commitment to the project.

- 7.3 The contract was let as a single contract, as opposed to a framework agreement (which would have been limited in its length), and the Council has been advised that it can join the Agreement with the provider through a Deed of Adherence.
- 7.4 Contract length is for a period of 7 years effective with no options to extend.
- 7.5 The client department is encouraged to work in partnership with the Council's information governance officer to ensure that the hub has been set up and operated in a manner that is compliant with the General Data Protection Regulation 2018 and the Data Protection Act 2018.

## 8. Other Implications

- 8.1 **Risk Management** - The planned approach has been for an incremental roll-out of the solution across all the London boroughs. This provides an opportunity to iron out any implementation issues before most boroughs join the hub. It will also serve to manage the capacity of the provider for on-boarding all the London Boroughs as effectively as possible.
- 8.2 Data quality is a key factor in the success of the hub, and it is recognised that, as with all data matching exercises, this will be a potential limitation to the success of the project. However, the feedback provided will enable councils to improve their own data quality, and so in turn will lead to more accurate identification of potentially fraudulent activity as well as ancillary improvements to other services.
- 8.3 It will be critical that the hub can provide an effective and prioritised list of potential leads. If it cannot then considerable resources will be spent following up cases that do not contain any fraud, and whilst an element of this is inevitable with any data matching tool their success depends on getting this prioritisation right.
- 8.4 There is a low level of risk to the Council as the product has been tested by the pilot authorities and demonstrated to meet the necessary performance standards as well as meeting data security requirements.
- 8.5 **Contractual Issues** – Joining the London Counter Fraud Hub enters the Council into a seven year commitment subject to robust performance measures. The London Borough of Ealing hosts the contract management team, which is funded through a contract mechanism that top-slices revenues from the contractor's charges.
- 8.6 An Oversight Board, which currently consists of Finance Directors from the four pilot authorities, has been established with the purpose of reporting on the effectiveness of the hub and providing a joined-up approach between the lead authority and other local authority stakeholders, and the wider stakeholder pool affected by the implementation of the LCFH.
- 8.7 Joining the LCFH is through a Deed of Adherence, which is also signed by CIPFA and the lead Authority. Once the Deed of Adherence has been entered into the council becomes a party to the Agreement. Termination rights can be exercised if the level of performance of the supplier during the service period is below in respect of any Key Performance Indicators.

## 8.8 Onboarding process is outlined below:

TASKS	Est. Time	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
		Pre Onboarding Tasks			Onboarding		
PA express an interest in joining LCFH	0 Days						
PA Seeks appropriate approval to join LCFH	20 days	█	█				
Contract Documentation sent for consideration & Review	5 days		█				
PA requests to join LCFH and provides relevant documents	5 days		█				
PA Project Established	10 days		█				
Interface between CIPFA and PA Established	7 days		█				
PA Provides Data in line with Specification	5 days		█				
CIPFA Review Data Files	10 days		█				
Data Ingested into Test System & Networks created	40 days		█	█	█	█	
PA Training	2 days					█	
PA Testing	10 days					█	
PA Automation	16 days					█	
PA Process Changes Implemented	10 days				█	█	
New Data Request for Go Live	5 days						█
Onboarding Councils set up on Live system	5 days						█
Go Live	2 days						█

**Green line** indicates go/no go checkpoint for participation in onboarding window

**Red line** indicates start of BAE tasks. This is dependent on receipt of data that has been validated to be in the correct format by CIPFA operations team and PA team

Automation preparation tasks can begin prior to end of data ingestion task however test data cannot be created or transferred until all BAE work complete and test build delivered  
Pre-Onboarding tasks should start a minimum of 3 months prior to the scheduled onboarding window to make sure PA can meet Onboarding deadline

**8.9 Staffing Issues** - It is expected that existing council capacity for investigating cases of fraud will be adequate, but if not, the hub provides additional capacity. No significant implications have therefore been identified.

### Public Background Papers Used in the Preparation of the Report:

None.

### Appendices:

None.

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**CABINET****16 July 2019**

<b>Title:</b> Procurement of Parking Noticing and Cashless Parking Systems	
<b>Report of the Cabinet Member for Enforcement and Community Safety</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected: None</b>	<b>Key Decision:</b> No
<b>Report Author:</b> Tina Brooks Interim Head of Service	<b>Contact Details:</b> Tel: 020 8227 2375 E-mail: <a href="mailto:Tina.Brooks@lbbd.gov.uk">Tina.Brooks@lbbd.gov.uk</a>
<b>Accountable Director:</b> Andy Opie – Operational Director.	
<b>Accountable Strategic Leadership Director:</b> Fiona Taylor, Director of Law and Governance.	
<p><b>Summary:</b></p> <p>Both cashless parking and the noticing systems are integral to support the Council to operate efficiently and meet its legal obligations under by Traffic Management Act (TMA) 2004.</p> <p>The Council’s cashless parking contract with Cobalt (aka RingGo) has expired, although the service continues to be provided by Cobalt under a formal agreement on the same terms. As the Council’s parking noticing system (Chipside) can also now be replaced without penalties being incurred under the contract, officers have been reviewing options for an alternative IT system(s) in view of the enhancements in technology since the existing arrangements were commissioned.</p> <p>Following the assessment of options, the intention is to use a single supplier for both cashless parking and a parking noticing system. The advantage of having a single supplier is that the two systems will be closely integrated, single supplier to manage and cost saving.</p>	
<p><b>Recommendation(s)</b></p> <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none"> <li>(i) Agree the procurement of a cashless parking and a parking noticing system from a single supplier via the Traffic Management Technology 2 (RM1089) LOT 15 Crown Commercial Service G-Cloud framework, in accordance with the strategy set out in the report; and</li> <li>(ii) Authorise the Operational Director of Enforcement and Community Safety, in consultation with the Cabinet Member for Enforcement and Community Safety, the Director of Law and Governance and the Chief Operating Officer, to approve the final procurement strategy, conduct the procurement and award and enter into the</li> </ul>	

contract(s) and all other necessary or ancillary agreements with the successful bidder(s), in accordance with the strategy set out in the report.

### **Reason(s)**

To assist in achieving the aspirations outlined within the Council's Parking Strategy to provide a safer, fairer, consistent and a more transparent parking service and effective traffic and parking enforcement, as well as the Council's priority of a well-run organisation.

## **1. Introduction and Background**

- 1.1 The Council has a duty under the Traffic Management Act 2004 (TMA) to tackle congestion and disruption on the road network. The TMA gives Councils tools to manage parking policies and enforce some moving traffic offences.
- 1.2 The Council's parking services operate a noticing system (Chipside) to issue a PCN (Parking Charge Notice) to illegally parked cars within the Borough.
- 1.3 The Council's parking services operate cashless parking (RingGO) for Council owned public car parks, some on-street parking and visitor parking within Controlled Parking Zones (CPZ).
- 1.4 Technology has improved and there is an opportunity to drive down costs utilising new technologies used by suppliers.
- 1.5 A noticing system and a cashless parking system will assist the Council:
  - In fulfilling its duties under the Traffic Management Act (TMA)
  - In meeting its commitment to keeping the Borough moving and connected
  - In delivering an accessible, safe and sustainable transport network
  - In providing good and efficient customer service

## **2. Proposed Procurement Strategy**

### **2.1 Outline specification of the works, goods or services being procured**

- 2.1.1 The Council will run a mini competition and award a contract to a single supplier for a parking noticing system and cashless parking system. Procurement will be done via the Traffic Management Technology 2 (RM1089) LOT 15, G-Cloud framework.
- 2.1.2 Both cashless parking and a parking noticing system will be handling personal identifiable data. Suppliers will need to comply with the government's 'cloud principals' criteria, which sets out good practice to safeguard data held in cloud datacentres.
- 2.1.3 A data impact assessment will be carried out with the Council's Information Governance Manager to ensure that GDPR obligations are fully met.

## **2.2 Estimated Contract Value, including the value of any uplift or extension period**

2.2.1 The estimated value of each contract is based on previous contracts for the potential full five-year period.

- Parking noticing system estimated value £300,000
- Cashless parking estimated value £250,000
- Parking noticing system implementation, software and hardware costs estimated cost £50,000
- Cashless parking implementation estimated cost £8,000

2.2.2 The total funding requirement is therefore estimated at £608,000 over a 5 year period, not including any inflationary uplift.

2.2.3 It is anticipated that existing budgets will be sufficient to cover the ongoing annual costs of the proposed systems.

## **2.3 Duration of the contract, including any options for extension**

2.3.1 The duration of the contract will be for a period of three years, with an option to extend for a further two years at the discretion of the Council and subject to satisfactory performance.

2.3.2 The expectation is that a contract would commence from April 2020.

**2.4 Is the contract subject to (a) the (EU) Public Contracts Regulations 2015 or (b) Concession Contracts Regulations 2016? If Yes to (a) and contract is for services, are the services for social, health, education or other services subject to the Light Touch Regime?**

2.4.1 Yes.

## **2.5 Recommended procurement procedure and reasons for the recommendation**

2.5.1 Via Traffic Management Technology 2 (RM1089) LOT 15, G-Cloud framework.

## **2.6 The contract delivery methodology and documentation to be adopted**

2.6.1 Through the Framework terms and conditions as described above. The mini-competition and award will be based on a detailed specification/requirement provided by Parking Services.

## **2.7 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract**

2.7.1 The expectation would be to;

- An improved noticing system to make efficiency saving in administration resources.
- A scanning solution to reduce manual scanning.

- A reduction in print and post costs by channel shifting to on-line appeals and notification using e-mails.
- A cost-efficient printing solution.
- Modern CEO handhelds to reduce device cost and device maintenance.
- The current cashless parking system has limitations in that the supplier is slow to make required changes dictated by parking strategy changes.
- Have a modern system that can meeting the Council's parking strategy.
- By having a single supplier there will be opportunities to have closer integration between the noticing and cashless systems, single supplier to manage hence leading to cost savings.
- These improvements will enable efficiencies in the productivity of the existing workforce and will ensure that the growth in demand arising from the CPZ project can be absorbed without the need to increase staffing.

## **2.8 Criteria against which the tenderers are to be selected and contract is to be awarded**

2.8.1 Tenders will be evaluated based on the tenderers' price and ability to deliver the contract as set out in the requirements and evaluation criteria in order to determine the most economically advantageous offer. The evaluation criteria for this Procurement will be based on;

Price – 60%, Quality – 40% for Cashless parking and noticing systems.

## **2.9 How the procurement will address and implement the Council's Social Value policies**

2.9.1 To continue to meet the Council's commitment to keeping the borough moving and connected and to;

- Helping traffic to flow more freely.
- Helping buses keep to their timetable.
- Assisting delivery vehicles.
- Allowing pedestrians to feel safer crossing the road without illegally parked cars causing obstruction.
- Keeping parking places reserved for Blue Badge holders for those who need to use them.

## **2.10 Contract Management methodology to be adopted**

2.10.1 Through the Framework terms and conditions.

## **3. Options Appraisal**

3.1 The following alternative options were considered:

### **3.1.1 Do Nothing**

- Rejected - the cashless parking contract has expired, and a contract is required to align to Council contract rules. The Parking Service would also wish to re-tender the noticing system to maximise value for money that re-tendering is expected to offer.

### 3.1.2 **Stay with the current suppliers.**

- Rejected, as above.

## **4. Waiver**

4.1 Not applicable for this procurement.

## **5. Consultation**

5.1 The proposals in this report were considered and endorsed by the Procurement Board at its meeting on 17<sup>th</sup> June 2019.

## **6. Corporate Procurement**

Implications completed by: Francis Parker – Senior Procurement Manager

6.1 Procurement supports the strategy within this report.

6.2 The evaluation criteria is suitable for these goods and services.

6.3 The proposed route to market is suitable and compliant with the Councils contract rules and PCR2015.

## **7. Financial Implications**

Implications completed by: Sandra Pillinger Group Accountant

7.1 The estimated annual value of both systems is £110k pa. In Year 1 there will also be implementation costs of £58k. These costs will be financed from the existing revenue budgets for RingGo and Chipside.

7.2 It is anticipated that existing budgets will be sufficient to cover the ongoing annual costs of the proposed systems.

## **8. Legal Implications**

Implications completed by: Kayleigh Eaton, Senior Contracts and Procurement Solicitor

8.1 This report is seeking approval to award a contract for a new parking noticing and cashless parking system through CCS framework RM1089. This report is also seeking approval to delegate authority to the Operational Director of Enforcement and Community Safety to approve the final procurement strategy, conduct the procurement and award the contract to the successful bidder in accordance with the strategy set out in this report.

8.2 The estimated value of the contract is £608,000 over 5 years which is in excess of the EU threshold for supplies and service contracts meaning that there is a legal requirement to competitively tender the contract. The Public Contracts Regulations 2015 (the Regulations) permit contracting authorities to call off valid frameworks in order to procure goods, services, works, as required. In compliance with the principles

of the Regulations the call-off process must be transparent, non-discriminatory and fair.

- 8.3 The requirements for competitive tendering, as contained within the Council's Contracts Rules, are met as Rule 5.1 (a) advises that it is not necessary for officers to embark upon a separate procurement exercise when using a Framework Agreement providing the Framework being used has been properly procured in accordance with the law and the call-off is made in line with the Framework terms and conditions.
- 8.4 The use of the CCS Framework will satisfy the above requirements as the Council is permitted to call off from the framework, which has been set up following a compliant OJEU process for all local authorities in the country and commenced on 31 October 2016 for a period of 4 years.
- 8.5 In line with Contract Rule 50.15, Cabinet can indicate whether it is content for the Chief Officer to award the contracts following the procurement process.
- 8.6 As the value of the Contract exceeds £100,000, in line with rule 52.2 of the Contract Rules, the Contract will require sealing. Legal Services will be on hand to assist in any queries which may arise and also assist in the sealing of the Contract documents.

**Public Background Papers Used in the Preparation of the Report:**

None.

**List of appendices:**

None.

**CABINET****16 July 2019**

<b>Title:</b> Procurement of Traffic Enforcement Cameras	
<b>Report of the Cabinet Member for Enforcement and Community Safety</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
<b>Report Author:</b> Tina Brooks Interim Head of Service.	<b>Contact Details:</b> Tel: 020 8227 2375 E-mail: Tina.Brooks@lbbd.gov.uk
<b>Accountable Director:</b> Andy Opie – Operational Director.	
<b>Accountable Strategic Leadership Director:</b> Fiona Taylor, Director of Law and Governance	
<p><b>Summary:</b></p> <p>Siemens currently provide the Council with automatic moving traffic enforcement cameras and ‘keep school clear’ (manually operated) cameras.</p> <p>The Council are not in an annual maintenance agreement with Siemens for moving traffic enforcement cameras and are paying annually for the camera maintenance. The enforcement cameras have been purchased outright by the Council. However, there is no contract in place to purchase new cameras and currently moving traffic enforcement cameras are being purchased on an ad-hoc, case by case basis. Parking services have previously been reluctant to go to another supplier because of integration, maintenance and operation costs. However, camera suppliers now offer services that will offer significantly lower costs for camera and maintenance costs, to make it easier to switch to another supplier.</p> <p>Parking services have soft market tested with suppliers who can now replace the existing Siemens cameras and maintain with new cameras within the current maintenance cost that the Council pay Siemens.</p> <p>The Borough is currently out of a maintenance contract with Siemens, therefore there would be no penalty to the Council if an alternative supplier was procured and the Council ceased to use Siemens cameras.</p>	
<b>Recommendation(s)</b>	
The Cabinet is recommended to:	
<ul style="list-style-type: none"> <li>(i) Agree the procurement of a traffic enforcement camera system via the ESPO framework in accordance with the strategy set out in the report; and</li> <li>(ii) Authorise the Operational Director of Enforcement and Community Safety, in consultation with the Cabinet Member for Enforcement and Community Safety, the</li> </ul>	

Director of Law and Governance and the Chief Operating Officer, to approve the final procurement strategy, conduct the procurement and award and enter into the contract(s) and all other necessary or ancillary agreements with the successful bidder(s), in accordance with the strategy set out in the report.

**Reason(s)**

To assist in achieving the aspirations outlined within the Council's Parking Strategy to provide an effective traffic and parking enforcement service, as well as the Council's priority of a well-run organisation.

**1. Introduction and Background**

- 1.1 The Council has a duty under the Traffic Management Act 2004 (TMA) to tackle congestion and disruption on the road network. The TMA gives Councils tools to manage parking policies and enforce some moving traffic offences.
- 1.2 The Council's parking services operate a CCTV Suite of 47 fixed automatic number plate Recognition (ANPR) cameras (Siemens), that record vehicles committing moving traffic contraventions. Siemens is currently the sole supplier providing CCTV managed solutions to parking services.
- 1.3 Traffic enforcement cameras are crucial to keep the Council's highways moving. Significant number of offences are committed resulting in a large number of contraventions being identified.
- 1.4 PCNs issued will offset the cost of the camera maintenance, managing the moving traffic enforcement and cost of new cameras. Any surplus will be reinvested to keep the Councils highways moving.
- 1.5 No contract exists to purchase new cameras although a maintenance budget is in place to pay Siemens to maintain the current cameras. Since Siemens cameras were first procured technology has improved and there is an opportunity to drive down costs through a mini competition process using the ESPO framework.
- 1.6 The current Siemens cameras have been purchased outright by the Council. Older cameras are 5/6 years old and coming to end of life.
- 1.7 With technology improvements alternative suppliers are now offering attractive solutions to replace the current cameras with new cameras keeping within the maintenance budget over a 5-year period.

**2. Proposed Procurement Strategy**

**2.1 Outline specification of the works, goods or services being procured**

- 2.1.1 New traffic enforcement cameras will be purchased to replace the current cameras paid for through the existing camera maintenance budget over the lifetime of the contract (5 years).

The cameras used for enforcement are specialist cameras, supplied by Siemens, and cannot be reutilised without significant modification and cost, making it not value for money to reutilise.

The strategy would be to tender for a traffic enforcement camera supplier and stay within the current maintenance budget with no new capital funding required.

Going forward new demand for traffic enforcement cameras would be fulfilled by the new supplier.

## **2.2 Estimated Contract Value, including the value of any uplift or extension period**

2.2.1 The estimated value of the contract is based on the current contract; the estimates below are for a 5-year period;

Automatic camera enforcement has an estimated value of £1.4M  
This excludes any annual inflationary cost increases.  
The cost excludes any inflationary uplift.

There will also be implementation and project cost from the supplier and Elevate, estimated implementations costs are £10,000.

### **2.2.2 Funding**

The total funding requirement is £1,400,000 over a 5-year period, not including any inflationary uplift plus one-off implementation costs of £10,000.

It is proposed that funding will be from PCN income and utilising current maintenance budgets for cashless parking and parking noticing system. There is also an expectation that there will a surplus in the parking account from various initiatives that have been implemented within parking.

- Current budget for Parking systems maintenance is £332k
- Allowing for £110k for the proposed new systems for Parking Noticing and Cashless Parking.
- there is a budget of £222k to support expenditure on the new camera enforcement system. It is anticipated that the budget shortfall of £58k can be met from additional PCN income

Camera enforcement is expected to generate sufficient funds to fund the camera maintenance and implementation costs. There is also an expectation that with the new CPZ initiative that there will a surplus in the parking account.

If an option to extend for a further 2 year was to be considered, available funding would need to be validated by Finance to ensure enough funding is available.

## **2.3 Duration of the contract, including any options for extension**

2.3.1 The duration of the contract will be for a period of 5 years with an option to extend for a further 2 years.

**2.4 Is the contract subject to (a) the (EU) Public Contracts Regulations 2015 or (b) Concession Contracts Regulations 2016? If Yes to (a) and contract is for services, are the services for social, health, education or other services subject to the Light Touch Regime?**

2.4.1 Yes.

**2.5 Recommended procurement procedure and reasons for the recommendation**

2.5.1 Conduct a mini competition on the ESPO framework – Parking Management Solutions (509NEW) based on a specification\requirements being produced by parking services.

**2.6 The contract delivery methodology and documentation to be adopted**

2.6.1 Through frameworks T&Cs as described above, and a detailed requirements document.

**2.7 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract**

Currently there is no contract in place to supply and fit automatic parking enforcement cameras. Cameras are currently being purchased from Siemens on an ad-hoc basis.

Following soft market testing alternative suppliers will replace all the current Siemens cameras and link to the Councils noticing system, keeping within the current maintenance paid to Siemens annually.

The Council will get new cameras with the latest technology without capital expenditure.

Suppliers are able to do this because technology has moved on and as a consequence, suppliers have now significantly reduced the cost and maintenance of traffic enforcement cameras.

New cameras purchased will be at least 40% cheaper than our current purchasing arrangement. Traffic enforcement camera cost around £25,000, so a significant saving per camera, with a lower maintenance cost per camera.

The consequence of awarding, the Council will get new cameras with lower maintenance costs and an option to purchase new cameras at lower cost than the current supplier – Siemens.

**2.7.1 Risks**

There will be a risk during replacement of cameras as any significant delay will lead to a reduction in compliance and PCNs issued. This risk can be mitigated by strict SLA with the alternative supplier for the replacement of cameras.

Cameras will not be switched off immediately but in a phased way to keep traffic compliancy until all cameras have been replaced.

Traffic camera enforcement will be handling personal identifiable data. Suppliers will need to comply with the governments 'cloud principals' criteria', which sets out good practice to safeguard data held in cloud datacentres.

A data impact assessment will be carried out with the Council's Information Governance Manager to ensure that GDPR obligations are fully met.

## **2.8 Criteria against which the tenderers are to be selected and contract is to be awarded**

2.8.1 Suppliers will be evaluated based on the tenderers' price and ability to deliver the contract as set out in the requirements and evaluation criteria in order to determine the most economically advantageous offer. The evaluation criteria for this Procurement will be based on;

Price – 70%, Quality – 30% for enforcement cameras

## **2.9 How the procurement will address and implement the Council's Social Value policies**

2.9.1 To continue to meet the Council's commitment to keeping the borough moving and connected and to;

- Helping traffic to flow more freely.
- Helping buses keep to their timetable.
- Assisting delivery vehicles.
- Allowing pedestrians to feel safer crossing the road without illegally-parked cars causing obstruction.
- Keeping parking places reserved for Blue Badge holders for those who need to use them.

## **2.10 Contract Management methodology to be adopted**

2.10.1 Through frameworks T&Cs.

## **3. Options Appraisal**

### **3.1 Do Nothing**

- Rejected, there is no contract in place with Siemens, parking wants maximise value for money that re-tendering will offer and comply with the Councils contract rules.

#### **Stay with the current suppliers.**

- Rejected - there is no contract in place.

#### **Not being in a contract with suppliers.**

- Rejected, as this is going against the Council's contract rules.

## **4. Waiver**

4.1 Not applicable for this procurement.

## **5. Consultation**

- 5.1 The proposals in this report were considered and endorsed by the Procurement Board at its meeting on 17<sup>th</sup> June 2019.

## **6. Corporate Procurement**

Implications completed by: Francis Parker – Senior Procurement Manager

- 6.1 Procurement supports the strategy within this report.
- 6.2 The evaluation criteria is suitable for these goods and services.
- 6.3 The proposed route to market is suitable and compliant with the Councils contract rules and PCR2015.

## **7. Financial Implications**

Implications completed by: Sandra Pillinger Group Accountant

- 7.1 The proposal is to procure a new camera enforcement system (47 cameras) at an estimated annual cost of £280k, plus implementation cost of £10k in Year 1.
- 7.2 The existing budget for Siemens maintenance costs can be utilised to support expenditure on the new system. The current budget for Parking systems maintenance is £332k. After allowing £110k for the proposed new systems for Parking Noticing and Cashless Parking, there is a budget of £222k to support expenditure on the new camera enforcement system. It is anticipated that the budget shortfall of £58k can be met from additional PCN income. Although there is a risk that additional PCN income will be insufficient, this risk is considered to be low. Improved debt collection procedures will also provide assurance that the funding gap will be met from additional PCN income.

## **8. Legal Implications**

Implications completed by: Kayleigh Eaton, Senior Contracts and Procurement Solicitor

- 8.1 This report is seeking approval to award a contract for new traffic enforcement cameras through the ESPO Framework 50NEW 'Parking Management Solutions'. This report is also seeking approval to delegate authority to the Operational Director of Enforcement and Community Safety to approve the final procurement strategy, conduct the procurement and award the contract to the successful bidder in accordance with the strategy set out in this report.
- 8.2 The estimated value of the contract is £1.4m over 5 years which is in excess of the EU threshold for supplies and service contracts meaning that there is a legal requirement to competitively tender the contract. The Public Contracts Regulations 2015 (the Regulations) permit contracting authorities to call off valid frameworks in order to procure goods, services, works, as required. In compliance with the principles of the Regulations the call-off process must be transparent, non-discriminatory and fair.

- 8.3 The requirements for competitive tendering, as contained within the Council's Contracts Rules, are met as Rule 5.1 (a) advises that it is not necessary for officers to embark upon a separate procurement exercise when using a Framework Agreement providing the Framework being used has been properly procured in accordance with the law and the call-off is made in line with the Framework terms and conditions.
- 8.4 The use of the ESPO Framework will satisfy the above requirements as the Council is permitted to call off from the framework, which has been set up following a compliant OJEU process for all local authorities in the country and commenced on 4 April 2019 for a period of 2 years with the option to extend for a further 2 years.
- 8.5 In line with Contract Rule 50.15, Cabinet can indicate whether it is content for the Chief Officer to award the contracts following the procurement process.
- 8.6 As the value of the Contract exceeds £100,000, in line with rule 52.2 of the Contract Rules, the Contract will require sealing. Legal Services will be on hand to assist in any queries which may arise and also assist in the sealing of the Contract documents.

## **9. Other Implications**

- 9.1 **Safeguarding Adults and Children** – Some cameras will be located near schools to ensure vehicles conform to legal traffic rules to ensure the safety of children.

### **Public Background Papers Used in the Preparation of the Report:**

None.

### **List of appendices:**

None.

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