

Notice of Meeting



THE CABINET

Tuesday, 15 February 2011 - 5:00 pm
Council Chamber, Civic Centre, Dagenham

Members: Councillor L A Smith (Chair); Councillor R Gill (Deputy Chair); Councillor J L Alexander, Councillor H J Collins, Councillor C Geddes, Councillor M A McCarthy, Councillor L A Reason, Councillor G M Vincent, Councillor P T Waker and Councillor J R White

Date of publication: 4 February 2011

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Acting Chief Executive

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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 personal or prejudicial interest they may have in any matter which is to be considered at this meeting. **Members are reminded that the provisions of paragraphs 12.3 and 12.4 of Article 1, Part B in relation to Council Tax arrears and Council house rent arrears respectively apply to agenda items 10 and 11.**
- 3. Minutes - To confirm as correct the minutes of the meeting held on 25 January 2011 (Pages 1 - 7)**
- 4. Extension of Contract for the Provision of Care Services within Colin Pond Court and D'arcy Gardens (Extra Care Schemes) (Pages 9 - 12)**
- 5. Solar Panels for Council Housing and Schools under the Feed In Tariff (Pages 13 - 23)**
- 6. Children's Personal Support Framework Agreement (Pages 25 - 33)**
- 7. In-Depth Review of Fly-Tipping Services (Pages 35 - 53)**

The Chair of the Living and Working Select Committee, Councillor Ogungbose, has been invited to the meeting.

8. **Urgent Action - Clarification of Joint Working Arrangements with NHS Barking and Dagenham (Pages 55 - 73)**
9. **Budget Monitoring 2010/11 (to follow)**
10. **Housing Revenue Account Estimates and Review of Rents and Other Charges 2011/12 (to follow)**
11. **2011/12 Budgetary Framework (to follow)**
12. **Treasury Management Annual Strategy and Prudential Indicators (to follow)**
13. **Membership of the Olympic Boroughs (to follow)**
14. **Council Debt Write-Offs 2010/11 - 1 October to 31 December 2010 (to follow)**
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 legislation (the relevant paragraph of Part 1 of Schedule 12A of the Local Government Act 1972 as amended).

17. **Review and Commissioning Plan: Mental Health Accommodation, Employment and Day Services (Pages 75 - 87)**

Concerns the financial and business affairs of a particular person and labour relations matters (paragraphs 3 and 4)

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

THE CABINET

Tuesday, 25 January 2011
(5:00 - 5:25 pm)

Present: Councillor L A Smith (Chair), Councillor R Gill (Deputy Chair), Councillor J L Alexander, Councillor H J Collins, Councillor C Geddes, Councillor L A Reason, Councillor G M Vincent, Councillor P T Waker and Councillor J R White

Also Present: Councillor I S Jamu and Councillor J E McDermott

Apologies: Councillor M A McCarthy

88. Declaration of Members' Interests

There were no declarations of interest.

89. Minutes (21 December 2010)

Agreed.

90. 2010/11 Budget Monitoring - April to November 2010

Received a report from the Cabinet Member for Finance, Revenues and Benefits on the Council's revenue and capital position for 2010/11 as at the end of November 2010.

The projected service overspends, taking account of in-year savings, have decreased from £3.5m (and not £3.9m as published) to £2.7m since the last report, the main reason being continued reductions in the projected overspends in the Customer Services and Children's Services departments. The Cabinet Member advised that he has held meetings with the Corporate Directors of those departments and will meet with them further as part of the efforts to achieve a year-end balanced budget.

With regard to the General Fund balance, this is now projected to be £8.3m at the year end rather than the planned £10m. In response to a question, the Corporate Director of Finance and Resources advised that accounting standards recommend that reserves should typically equate to approximately 3% of net expenditure or 5% of gross expenditure (whichever is the most prudent) although this should be considered in the light of the level of risks, which is an issue for this Council.

The position of the Housing Revenue Account (HRA) is largely unchanged, with the projected deficit now at £38,000. In respect of the Capital Programme, the Cabinet Member reported on the proposed re-profiling of a number of schemes to reflect the impact of delays in Government funding decisions. As a consequence, the Capital Programme is projecting slippage in budgeted expenditure of £7.6m.

Agreed, as a matter of good financial practice, to:-

- (i) Note the current projected outturn position for 2010/11 of the Council's

- revenue and capital budget as detailed in paragraphs 3 and 5 of and Appendices A and C to the report;
- (ii) Note the position of the HRA as detailed in paragraph 4 of and Appendix B to the report;
 - (iii) Note the position of the Contingency Fund as detailed in paragraph 3.1.5 of the report; and
 - (iv) Approve the changes to capital budgets as detailed in paragraph 6 of and Appendix D to the report.

91. Network Management Plan and the London Permit Scheme

Received a report from the Cabinet Member for Environment on a draft Network Management Plan (NMP) for the Borough and the introduction of a Permit Scheme for works on the public highway.

Under the Traffic Management Act 2004 all local authorities have a duty to publish a NMP, setting out their plans to tackle congestion and disruption on the highway network, improving accessibility, offering improved transport choices and reliable journey times and improving air quality. The draft NMP sets out, in broad terms, the Council's current position and plans and, once implemented, will be updated and modified to reflect the emerging direction and decisions regarding transport issues.

The Act also provides for local authorities to incorporate a scheme whereby agencies wishing to undertake works to the highway require a permit, with the main aims being to ensure safety and minimise inconvenience to people using the highway. A permit will prescribe the activities allowed, commencement date and duration of works. The London Permit Scheme for Road Works and Street Works (LoPS) is already being operated by 18 London councils and all London councils are expected to have introduced the scheme within the next two years.

The Cabinet Member confirmed that the LoPS will be self-financing, with implementation and operating costs being recouped from the charges for permits, and inclusion in the scheme is subject to approval from the Secretary of State for Transport.

Agreed, in order for the Council to meet its statutory responsibilities and assist in achieving its Community Priorities "Safe", "Clean" and "Prosperous", to:-

- (i) Approve the draft Network Management Plan as set out at Appendix A to the report;
- (ii) All works on the Borough's roads and footpaths taking full account of the Council's current Network Management Plan and the requirements of the Traffic Management Act 2004;
- (iii) Application being made to the Secretary of State for Transport for consent for inclusion in the London Permit Scheme for Road Works and Street Works;
- (iv) The allocation of £100,000 to fund implementation costs, on the basis that

this funding and ongoing revenue costs will be recovered from income generated from the scheme; and

- (v) Authorise the Corporate Director of Customer Services, in consultation with the appropriate Cabinet Members, to establish the precise details of the allowable activities within the Permit Scheme.

92. Local Development Framework - Adoption of Barking Town Centre Area Action Plan

Further to Minute 56 (8 September 2009), received a report from the Cabinet Member for Regeneration on the outcome of the public consultation and inspection process in respect of the Barking Town Centre Area Action Plan (BTC AAP), which provides town centre specific policies in line with the strategic policies set out in the Council's Local Development Framework Core Strategy.

Noted that a number of changes have been made to the BTC AAP to take on board issues raised by the independent Inspector.

Agreed, in order to assist the Council to deliver all the Community Plan priorities for Barking Town Centre, to **recommend the Assembly** to adopt the Barking Town Centre Area Action Plan, as contained in the appendix to the report, which will form part of the Barking and Dagenham Local Development Framework.

93. Contract for the Provision of a Parks Safer Neighbourhood Team by the Metropolitan Police

Further to Minute 125(ii) (16 February 2010), received a report from the Cabinet Member for Crime, Justice and Communities on proposals to formalise the arrangement with the Metropolitan Police regarding the provision of a Parks Safer Neighbourhood Team service.

As part of the budgetary considerations for 2010/11, a review was undertaken into how the Council keeps its parks and open spaces safe. Arising from this, a team comprising a Sergeant and five Police Constables has been providing the service since July 2010 at a cost to the Council of £240,000 per annum, which represents a considerable saving on the previous service provision. The Cabinet Member advised that in view of the success of the new arrangements it is proposed to enter into a formal two-year contract with the Metropolitan Police for this service.

Agreed, in order to assist the Council to achieve its Community Priority "Safe", to:-

- (i) Authorise the Corporate Director of Adult and Community Services to enter into a two-year contract with the Metropolitan Police Authority, under section 92 of the Police Act 1996, on the terms set out in the report; and
- (ii) Waive the requirement to tender in accordance with the Council's Contract Rule 4.2.2.1, as the services to be provided under the contract with the Metropolitan Police are of a specialist or proprietary nature.

94. Tender for Youth Crime Prevention Project

Received a report from the Cabinet Member for Crime, Justice and Communities

on proposals for the retendering of the contract for the delivery of a youth crime prevention service (Youth Inclusion Project), the current contract for which is due to expire on 31 March 2011.

The Cabinet Member referred to the successes that have been achieved under the current service and advised that a review, as part of the preparations for the new contract, has identified further improvements that can be realised through, for example, basing the service within the Multi-Agency Locality Teams (MALTs) which would improve access for key target groups of young people from across the Borough.

It was also noted that the new contract will contain relevant break clauses in the event that the external funding which supports the project is not forthcoming beyond 2011/12.

Agreed, in order to assist the Council to achieve its Community Priorities “Safe”, “Fair and Respectful”, “Prosperous” and “Inspired and Successful”, to authorise the Corporate Director of Adult and Community Services to procure and award an initial three-year term contract for the provision of Youth Inclusion Project services on the terms detailed in the report.

95. Barking & Dagenham Safeguarding Children Board, Annual Report 2009/10

The Corporate Director of Children’s Services introduced the Barking and Dagenham Safeguarding Children Board’s Annual Report for 2009/10, which outlined the achievements of the Board over the past year and its priorities for the next 12 months.

96. Barking Enterprise Centre: Tender for Management

Further to Minute 147 (16 March 2010), received a report from the Cabinet Member for Regeneration on proposals to tender for the management of the Barking Enterprise Centre (previously referred to as the Barking Business Centre) which is due to open in October 2011.

The Head of Regeneration and Economic Development outlined the key services to be provided under the contract and also explained the main differences between the Barking Enterprise Centre and the Centre being developed at Frizlands Lane, Dagenham, as well as other new business opportunities in the Dagenham Dock and Dagenham East areas.

Agreed, in order to assist the Council to achieve its Community Priority “Prosperous”, to authorise the Corporate Director of Finance and Resources to procure and award an initial three-year contract for the Barking Enterprise Centre management through the Accelerated OJEU Restricted Procurement Procedure, on the terms set out in the report.

97. Review of Legal Services and Future Proposals

Received a report from the Leader of the Council on the outcome of an initial review of the Council’s Legal Service recently undertaken by the Head of Legal and Democratic Services at Thurrock Council, following discussions between the respective Chief Executives.

The initial review focussed on the following objectives:

- The effectiveness of the current arrangements within the Legal Service compared with the expectations of the review carried out by Rockpools in 2007
- The future requirements for the Legal Service
- Options for providing the future service given the need to make significant savings

Four options for the future delivery of the Legal Service were identified, namely (a) possible wholesale merger of Legal and Democratic Services at LBBD and Thurrock; (b) shared legal services between the two authorities but with separate heads of service; (c) a shared head of service between the two authorities with sharing of services where feasible; and (d) separate services with separate heads of service.

The Leader advised that option C is preferred as it would allow the idea of a shared head of service to be piloted at the same time as proceeding with an early, full review of the service and the implementation of a changed structure during the first half of 2011/12. The arrangement would not involve any formal merger of services but would allow any opportunities for the sharing of services to be explored. At the same time a restructure of the Legal Service at Barking and Dagenham would be implemented which, in particular, would see a reduction in the number of managers in order to make savings of approximately 20%, previously agreed as part of the budget considerations for 2011/12. This option would also give the flexibility to decide towards the end of 2011 on whether to have a permanent shared head of service and Monitoring Officer.

Agreed, in order to assist the Council to achieve the revenue savings targets identified as part of the 2011/12 budget process and to ensure that the Council has an effective and efficient legal service, to:-

- (i) Pursue option C as detailed in the report, under which Barking and Dagenham would second from Thurrock for the period 1 April 2011 to 31 March 2012, on a part-time basis, their Head of Legal and Democratic Services to jointly fulfil the role as head of service and Monitoring Officer for both authorities on a shared basis;
- (ii) Authorise the Chief Executive to negotiate and finalise the arrangements, which will be subject to the approval of Thurrock Council;
- (iii) Note that the relevant JNC Assembly Panel(s) will be asked to consider any relevant issues, and that the Assembly will be required to make the final decision in terms of the appointment of the individual concerned as Monitoring Officer; and
- (iv) The situation being reviewed after six to nine months by the Chief Executive in consultation with the Corporate Management Team, Legal Service managers and Thurrock colleagues, and reported back to the Cabinet by the end of 2011 in order that a final decision can be taken on future arrangements.

98. Revised London Local Authority 'Gold' Resolution and Mutual Aid Arrangements

(The Chair agreed that this item could be considered at the meeting as a matter of urgency under the provisions of Section 100B(4)(b) of the Local Government Act 1972.)

Received a report from the Cabinet Member for Environment on proposed updates to the Local Authority 'Gold' Resolution and the formalisation of mutual aid arrangements between London local authorities.

The Local Authority Gold arrangements provide a robust and joined-up approach to dealing with major emergency situations across London. The current resolution has been successful in assisting the pan-London response to major incidents such as the London Bombings. The proposed changes are intended to build on the arrangements for what are known as "slow burn" emergency situations, such as the flu pandemic and severe weather situations.

The London Resilience Local Authority Panel has also developed a set of guidelines, in the form of a Memorandum of Understanding, to firm up the current informal arrangements that exist between London's local authorities for providing mutual aid, whereby one or more authorities provide staff or equipment to deal with an emergency situation in another borough.

Agreed, in order to assist the Council to achieve its Community Priority "Safe", to:-

- (i) Approve the Addendum to the Local Authority 'Gold' Resolution as set out at Appendix A to the report; and
- (ii) Adopt the Memorandum on Mutual Aid as set out at Appendix B.

99. Private Business

Agreed 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).

100. Update on Remodelling and Tendering of Residential Care Services for People with Learning Disabilities

Further to Minute 57 (2 November 2010), received a report from the Cabinet Member for Health and Adult Services on the progress of remodelling of residential care services for people with learning disabilities.

The Cabinet Member outlined the reasons why the approach that was agreed by Minute 57 cannot now be progressed and presented revised arrangements which involve further interim measures while a competitive tendering exercise is undertaken.

Agreed, in order for the Council to continue to meet its statutory obligations and to provide cost effective and value for money services, to:-

- (i) Authorise the Corporate Director of Adult and Community Services to procure and award contracts to provide residential services for people with learning disabilities as detailed in the report; and
- (ii) Extend on current terms the purchase of residential care from Outlook Care up to 31 July 2011.

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CABINET

15 FEBRUARY 2011

REPORT OF THE CABINET MEMBER FOR HEALTH AND ADULT SERVICES

Title: Extension of Contract for the Provision of Care Services within Colin Pond Court and D'arcy Gardens (Extra Care Schemes)		For Decision
Summary: This report provides an update on the current position with regards to the provision of Extra Care housing at Colin Pond Court and D'Arcy Gardens. Extra care housing is part of the provision of support which is available to older people who require extra help and services to enable them to continue living independently for as long as possible. The report provides an update about specific contracting issues currently in hand. Wards Affected: Chadwell Heath and Goresbrook		
Recommendation(s) The Cabinet is recommended to agree: (i) To approve a two year extension to the contract for the Provision of Care Services in Housing with Extra Care Schemes with Care UK Homecare Limited. (ii) To delegate its power to extend contracts under Rules 4.3.1 and 4.3.2, to the Corporate Director of Adult and Community Services following successful conclusion of the negotiations.		
Reason(s) To assist the Council to achieve its Community Priority "Healthy".		
Comments of the Chief Financial Officer The financial comments appear below in section 3.		
Comments of the Legal Partner The comments of the Legal Partner appear below in section 4.		
Head of Service: Karen Ahmed	Title: Head of Adult Commissioning	Contact Details: Tel: 020 8227 2331 E-mail: Karen.ahmed@lbbd.gov.uk
Cabinet Member: Cllr Reason	Portfolio: Cabinet Member for Health and Adult Services	Contact Details: Tel: 020 8724 8013 E-mail: linda.reason2@lbbd.gov.uk

1. Background

- 1.1 In September 2005, Cabinet received and approved a report for the awarding of a tender to Care UK Homecare Limited for the provision of care services in housing with Extra Care Schemes at Colin Pond Court and D'Arcy Gardens. This contract was for an initial period of five years (with provision for a further two year extension) and had an annual value of approximately £744,000.
- 1.2 The objective of the service specification was to provide appropriate accommodation and care to meet the needs of residents at both schemes. Both Colin Pond Court and D'Arcy Gardens were to offer conditions that enable older people to live in the community with the opportunity to maintain maximum independence, choice and control over their own lives.
- 1.3 There are now eight Extra Care Schemes in the borough. As well as Colin Pond Court and D'Arcy Gardens, TLC Care provide support for residents within Harp House and Fred Tibble Court. Four in-house sheltered housing schemes have been remodelled into additional extra care schemes.
- 1.4 There are currently 31 service users receiving care packages at Colin Pond Court and 28 service users receiving care packages at D'Arcy Gardens. The service users, aged over 55, have personal care and domestic support provided by Care UK. The schemes are popular with service users and waiting lists are managed via an Extra Care panel chaired by the Council.
- 1.5 Individuals are assessed as falling into one of three levels of support needs low, medium or high. Each service user has a flexible Care and Support Delivery Programme, based on their individual care plan, which identifies targets and outcomes agreed by the service user or their representative, the Care Provider and the Social Services Assessor. The cost of this Extra Care service is met from existing budgets.
- 1.6 The eight Extra Care Schemes have so far made a significant contribution to the Council's ability to sustain people in the community and avoid admissions to long-term residential and nursing care. The Extra Care support has also helped avoid unnecessary admissions into hospital. Extra Care also has the benefit of allowing residents to remaining in one place as their condition deteriorates. The level of support will increase but their home will remain in the Extra Care setting.

2. Proposal

- 2.1 It is proposed to extend the Care UK contracts with D'Arcy House and Colin Pond to 5 December 2012. This is allowable under the terms of the contract but requires Cabinet approval.
- 2.2 An extension of the Care UK contract will allow for continuity for service users and the already established relationships with the provider to remain.
- 2.3 The extension of the contract will also enable learning from the Up2Us pilot (personalisation in Extra Care) to influence the Council future commissioning decisions for Extra Care.

- 2.4 HACT (the housing action charity) are running Up2Us pilots in partnership with housing associations and local authorities at six locations across England. One of the locations is at Harp House/Helmore Bungalows Extra Care Scheme in Barking. This pilot began in December 2009 and will run until December 2011. The expected outcome of the pilot is people with support needs will be enabled to gain more choice and control over their lives by pooling their individual support and care budgets and so save money by sharing the cost of support for services. It will also allow service users to create interesting and cost effective ways to spend personal budgets. Crucially, the scheme helps service users to stay independent and away from residential care.
- 2.5 The challenge is to see how personalisation can work effectively within Extra Care Schemes with a view to extending this approach across the other seven schemes in the borough. The outcomes from the Up2Us pilot are being collated so that further improvements can be made for the remainder of the pilot period. A full evaluation will take place as the pilot concludes in December 2011.

3. Financial Issues

- 3.1 The cost to the Council of Colin Pond Court and D'Arcy House is £15,000 per week for 59 people. This equates on average £254 per week per resident. Many of the residents have been residing in the Extra Care setting for several years and the cost of their care has gradually increased as their needs increase.
- 3.2 While many residents at Colin Pond Court and D'Arcy House have higher end needs leading to higher costs, the cost is still significantly lower than residential care. Residential care costs on average £404 per week (£21,000 a year).
- 3.3 The costs of the contract extension of Care UK will be met from existing budgets based on an annual estimated expenditure level of approximately £768,000.
- 3.4 Cost savings will be negotiated with the provider for the remainder of the contract. The proposed savings will be implemented as a formal variation.

4. Legal Issues

- 4.1 Where a decision is made to retender the service, TUPE implications will exist between the current and any new approved provider. However with the extension, this will not be an issue.
- 4.2 The Constitution (Contract Rules 13.3) provides delegated authority to the commissioning Chief Officer, in consultation with the Chief Financial Officer (Section 151 Officer), to award contracts upon conclusion of the procurement process where the value of a contract is in excess of £50,000.

5. Other Implications

- 5.1 **Risk Management:** The ability of the negotiation to attain much needed savings which will assist the Council in achieving all of its Community Priorities and a balanced budget within Adult & Community Services for financial year 2011/12.

- 5.2 **Contractual Issues:** This contract extension will allow the service to continue under contractual arrangements whilst ensuring that our future commissioning intentions are informed through the Up2Us project which will deliver personalisation in Extra Care Schemes.
- 5.3 **Staffing Issues:** There are no Council staff employed to deliver this service.
- 5.4 **Customer Impact:** The service is for all borough residents who are assessed as needing to live independently in a scheme that has care on site. It empowers residents to maintain their independence while encouraging choice and control over their lives.
- 5.5 **Health Issues:** These schemes help to improve the health and wellbeing of those residents living in them and make a significant contribution to keeping them out of residential care, hospital and limiting their exposure to nursing care.

6. Options appraisal

- 6.1 Option one would be to terminate the existing contract with Care UK and re-tender. This has three disadvantages and thus is not recommended:
- There would be a considerable time delay of up to six to nine months to tender which would mean that the current service would be being delivered outside a formal contracting arrangement.
 - The potential savings through re-tendering the service are unknown.
 - The re-tendering process will incur additional costs.
- 6.2 The 'do nothing' option would result in the schemes either operating outside a contracted arrangement or should the decision be made to stop care on site, this would mean that the scheme would revert to being Sheltered Housing for Older Borough Residents resulting in an increase in the number of residents placed in residential and nursing provisions. This, in turn, would result in the cost of care packages increasing significantly.

7. Background Papers Used in the Preparation of the Report:

Executive Report 25 January 2005 'Provision of Extra Care Housing – D'Arcy Gardens and Colin Pond Court'

Executive Report 13 September 2005 "Award of Tender for Provision of Care Services in Housing with Extra Care Schemes – Colin Pond Court and D'arcy Gardens". At this meeting Executive gave permission for the tender to be awarded.

Executive Report 29 September 2009 "Putting People First – Personalisation"

8. List of appendices:

None

CABINET

15 FEBRUARY 2011

REPORT OF THE CABINET MEMBER FOR ENVIRONMENT

Title: Solar Panels for Council Housing and Schools under the Feed In Tariff	For Decision
<p>Summary:</p> <p>This report sets out a proposal to install solar panels that generate electricity to up to 1000 Council homes and to the Corporate Estate including up to 55 of the borough's schools through the Feed in Tariff scheme. Under this proposal, the Council could save over 1,165 tonnes of carbon each year and financial savings of up to £150 each year on individual Council tenants energy bills , thus helping to alleviate fuel poverty and reducing the Council's energy costs.</p> <p>Authority is sought to procure a private development partner to supply, install, maintain, insure and finance the installation of the panels using a restricted procedure through the Official Journal of the European Union (OJEU). Through this process the aim will also be to maximise the number of local jobs and ensure the local supply chain is used.</p> <p>Wards Affected: All</p>	
<p>Recommendation(s)</p> <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none"> (i) Agree to the procurement of a commercial partner to supply, install, maintain, insure and finance the installation of solar photovoltaic panels to Council properties and schools through an OJEU procurement procedure, on the terms detailed in the report. (ii) Agree that the housing project be restricted to a scheme of between 500-1000 Council properties in the first instance. (iii) Agree that the schools project should initially be restricted to up to 50% of the potential roof space. (iv) Agree that the terms of the contract are designed to ensure that the investment is directed to areas within the Borough with particularly high levels of deprivation and fuel poverty. (v) To indicate whether it wishes to be further informed or consulted on the progress of the procurement and the award of the contract, or whether it is content for the commissioning Chief Officer to award the contract; (as provided for in the Constitution, Contract Rules 13.3). 	
<p>Reason(s)</p> <p>To assist the Council in achieving its Community Priorities of "Clean", "Prosperous" and</p>	

“Inspired and Successful”.

Comments of the Chief Financial Officer

This report asks members to agree to the commencement of a tendering process for the appointment of a development partner to supply, install, maintain, and finance solar panels on up to 1,000 Council properties including schools for a 25 year contract.

Under this method, the Council will not incur any capital costs, either in the form of payments to the development partner or the direct purchase/supply of materials. The development partner will be wholly responsible for financing the project, and will get their return from the generation and export of energy from the solar panels (approx 44p per kilowatt produced from the panels). The alternative option is that the Council finances and provides the solar panel itself (rather than a development partner); however under this method it would need to find the upfront capital cost, and would also bear the risk of not receiving sufficient income from the scheme, hence this is not the preferred option.

Under this scheme, 50% of the energy produced from the solar panels will go to the tenant of the property for free, thus lowering their bills and improving fuel deprivation and poverty; and the other 50% produced will be returned to the National Grid for redistribution.

It is proposed that 1,000 homes be installed with solar panels by April 2012, which will equate to a total capital cost to the development partner of £10,000,000. It is also proposed that the development partner lease the roof space of the Council properties at a value of £1 per m² of panel. If the full 1,000 panels were to be installed this will equate to 10,000m² of panels, and therefore rental income of £10,000 per annum to the Council. The only costs that would be incurred by the Council in relation to this are minor incidental costs and staff time (funded by existing Regeneration & Economic Development budgets).

Comments of the Legal Partner

This report is seeking Cabinet’s approval to undertake an EU tendering exercise for the procurement of a private sector partner to supply, install, maintain, insure and finance the installation of solar panels on up to 1000 Council homes and to the Corporate Estate including up to 55 of the borough’s schools through the Feed in Tariff scheme.

The estimated value of the proposed partnering contract exceeds the EU threshold for services (currently £156,442); therefore there is a legal requirement to tender the contract in the EU. Furthermore, the Council’s Contract Rules (Contract Rule 3.6) require the strategy for the procurement of contracts of above £400K in value to be submitted to Cabinet for approval prior to procurement of such contracts.

The report at Paragraph 5.9 sets out the proposed strategy for the procurement of the contract in the EU. This strategy complies with the EU public procurement rules as contained in the Public Contracts Regulations, 2006.

Property law issues have been addressed at Paragraph 4 of this report.

Head of Service:	Title:	Contact Details:
Jeremy Grint	Divisional Director of Regeneration and Economic Development	Tel: 020 8227 2443 E-mail: Jeremy.Grint@lbbd.gov.uk

Cabinet Member: Cllr G M Vincent	Portfolio: Environment	Contact Details: Tel: 020 8724 2892 E-mail: gerald.vincent@lbbd.gov.uk
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1. Background

- 1.1 As conventional supplies of energy diminish and in order to meet the challenges of climate change, the Council must respond to calls for a low carbon economy, in which the Authority assists by providing secure and affordable sources of energy, such as renewable energy.
- 1.2 There are statutory obligations under the Climate Change Act 2008, Energy Act 2008, EU Buildings Directive as well as legislative measures such as the Carbon Reduction Commitment Energy Efficiency Scheme (CRC) which provide an overwhelming imperative for the Council to reduce energy consumption and carbon emissions both in its Corporate Estate and the wider Borough.
- 1.3 The Feed-in Tariff (FITs) scheme is a national scheme launched by the Government, to increase investment in small scale, low carbon renewable electricity generation, such as solar Photovoltaic (PV) panels, in return for a guaranteed payment for the electricity generated. The scheme consists of two payment components, a generation and export tariff; these rates are guaranteed and provided for 25 years. The payments are considered to be highly attractive and are designed to incentivise investment in renewable technology.
- 1.4 Under this proposal, by installing solar panels on up to 1000 of the Council's homes and the wider Corporate Estate (including the Schools) the Council could save over 1,165 tonnes of carbon each year. It could also mean savings of up to £150 each year on individual Council tenants energy bills and off-set the Schools' energy bill by some £50,000 each year. Thus helping to alleviate fuel poverty and free up resources for schools.
- 1.5 Members will recall that two Council properties in Ripple Road, Barking were provided with free solar panels, fully funded by Eaga and unveiled by the then Secretary of State for Energy and Climate Change, Ed Miliband. This pilot was used to test the technology and approach taken.
- 1.6 The purpose of this report is to provide a brief overview of the proposal, set out the financial, legal and other implications and agree the next steps to implementing this project.

2. Proposal

- 2.1 The introduction of the FIT has stimulated the market for solar Photovoltaic (PV) panels and more and more organisations are looking to invest and make the most of the associated commercial opportunities. Officers have been considering a number of different options to finance the installation of the solar panels. These vary in the amount of debt and risk the Council is willing to assume and the degree of control the Council wishes to exert over a particular delivery model. The options include: attracting a private development partner to supply, install, maintain, insure and finance the installation of the panels; a shared ownership model whereby a

private development partner is appointed to supply, install and finance the upfront cost of the panels and in return provide a share of the profits but also off load the risks and ongoing costs associated with the panels to the Council; or a model whereby the Council invests and installs the panels itself through prudential borrowing. Under the three options it is proposed that the electricity generated by the panels will be provided to the tenant of the properties, free of charge.

- 2.2 A cost-benefit analysis of the three models has been conducted. This model has been scrutinised and endorsed by colleagues in Elevate. The results demonstrate that the first option, whereby the Council attracts a private development partner to supply, install, maintain, insure and finance the installation of the panels would be the most commercially viable and beneficial option for the Council.
- 2.3 Under this option, the Council could be involved in the Feed-in Tariff scheme and generate benefits for both the Council and tenants (in terms of carbon savings and fuel poverty alleviation) whilst not requiring the Council to assume the financial burden of the initial capital investment through prudential borrowing (of up to £10,000,000) nor the costs associated with management and maintenance during the 25 year life of the scheme, which would be significant. In short, the financial and maintenance burden and risks would be transferred to the development partner.
- 2.4 It is recommended that the proposal should initially be restricted to up to 1000 Council houses, as a trial, with the option to increase this to a further 1000 properties. It is also believed that the scheme should be restricted due to the proposed introduction of the Renewable Heat Incentive (RHI) from April 2011. The RHI is an equivalent market incentive to stimulate investment in renewable **heat** (as opposed to **electricity** which is the case with the FIT) sources. This includes technologies such as solar thermal panels (that heats water to provide hot water as opposed to producing electricity, as with the PV panels) and wood chip boilers. Therefore officers do not wish to restrict the future potential of roof space by using all the available roof space to install solar PV panels to produce electricity and wishes to ensure there is available roof space to install solar thermal panels to benefit from the RHI. On the same basis, it is also considered prudent that initially the FIT scheme be restricted to up to 50% of suitable roof space on schools.
- 2.5 It is important to note that the Feed-in Tariff has been designed to secure a speedy increase in investment in this technology. Therefore the generation tariff for new schemes is subject to 'degression' in which the payment rate progressively reduces each year post April 2012. There is therefore some urgency on the Council if it wishes to take full advantage of the FIT scheme under the current higher, guaranteed rates of payment.

3. Financial Issues

- 3.1 The private development partner appointed will be expected to cover all upfront costs and future outgoings, including the cost to survey, supply, install, maintain and insure the installation for the life of the contract (25 years).
- 3.2 In return the private development partner will lease the roof space for a nominal value for the 25 years. There are very few market comparables in the UK regarding the value of the roof rental for the PV panels. However, following examples in Germany (where the Feed-in Tariff idea was pioneered) it is suggest that rental

values could equate to around £1 per m² of panel. Therefore if £10,000,000 was invested in the scheme, this would deliver up to 10,000m² of panels and could therefore generate rental income of around £10,000 per annum to the Housing Revenue Account.

- 3.3 The private development partner appointed will receive all or most of the Feed in Tariff payments arising from the solar PV panels in return for investing and assuming the management and maintenance costs.
- 3.4 The lease will require the private development partner to reinstate leased premises, decommission and remove the solar panels at their own cost if the lease is determined (howsoever caused). This is to ensure that the ongoing financial burden of the panels (including insurance, maintenance and decommissioning) is not placed on the Council on expiry of the term or early determination of the lease.
- 3.5 The results of the financial analysis indicates that, should the Council select the private finance route for implementation, careful consideration and negotiation is required to ensure that the scheme is structured so that the Council can meet any costs incurred from setting up the project and any ongoing costs.
- 3.6 LBBB faces the added financial pressure of the Carbon Reduction Commitment (CRC) Energy Efficiency Scheme, expected to be circa £400k. Roof rental payments, in relation to the Corporate Estate, could be utilised to off set this pressure. If a deal can be struck to enable part of the FIT payment to be made directly to the Council, this could help reduce our liability.

4. Property Law Issues

- 4.1 The Council as freeholder will grant a 25 year lease of the roof space for a peppercorn rent to the private development partner following necessary consultation with tenants.
- 4.2 Where necessary, agreements will be entered into between LBBB, the private development partner and tenants and/or the tenancy agreements will be amended (following tenant consultation) to confer necessary rights (e.g. ancillary loft space, metering locations and ancillary cabling) where those rights lie within areas demised or controlled by the tenant. This will also include a clause that the private development partner will not be awarded exclusive rights to provide the utilities to the property.
- 4.3 The nature of the work will require the installer to enter the property. Therefore the tenant will need to provide permission to enter the property. The tenant could refuse in which event the Council would need to seek a court order requiring access. This would involve legal and court fees. The risk can be mitigated by consulting with tenants before, during and after the installation programme and using feedback to modify the process as it is rolled-out. Community events could be scheduled in the targeted areas and individuals could be contacted in advance of the programme being rolled-out. Tenants could also be made fully aware of the financial benefits in terms of energy savings.
- 4.4 Electricity from the solar panels will be provided to the tenants free of charge for the duration of the lease.

- 4.5 The private development partner will register the 25 year leases at the Land Registry as notification of interest to any subsequent owner/occupier.
- 4.6 Notices will be served by LBBD and declarations by the private development partner excluding the leases from the Landlord and Tenant Act 1954.
- 4.7 Leases will include a break clause to enable either party to terminate the lease early, not to be triggered within the first [5] years. The lease will also include a redevelopment clause in favour of the Council in the event that the building is earmarked for redevelopment during the lease term.

5. Other Implications

Risk Management

- 5.1 The private development partner appointed will own the solar PV panels and assume the responsibilities associated with the panels, including:
 - the supply and installation
 - costs of maintenance and servicing of the panels
 - inverter replacement
 - performance risk of equipment
 - risk of any future Government terminating the scheme
 - risk of damage to the panels through vandalism, theft etc
 - insurance costs
 - meter readings and data recording and monitoring
- 5.2 The private development partner appointed will need to indemnify the Council against any costs incurred due to damage to property both internal & external due to faulty equipment and/or through installation.
- 5.3 The scheme could affect building insurance costs. The private development partner appointed will be expected to meet such increases via insurance premiums payable by the Council as freeholder.
- 5.4 The agreement between the Council and the appointed private development partner will need to indemnify the Council in respect of third party claims and losses.

No liability will be placed on the Council for existing electrical systems and the Council will not accept any claim for such additional works that may be required.
- 5.5 For the Corporate Estate, the Council purchases its energy through a company called Laser, an Energy Buying Group that represents over 100 Local Authorities across the south of England. The Council is contractually obligated to buy energy from Laser for the next five years. The contract would not be affected by the solar panels as they allow a certain tolerance margin which allows 15% increase or decrease in consumption.

Contractual Issues

- 5.6 Although under the conditions of the proposal, the Council will not be procuring the equipment itself it is possible that each dwelling included in the scheme could have

up to £10,000 worth of solar PV installed and if it is assumed that up to 1000 dwellings would be suitable, then the total investment could be as much as £10m. On an assumption that all Schools participate and utilise 50% of the available roof space (24,000m²), this could lift the investment approximately by a further £10m, taking the total investment to £20 million in value.

- 5.7 The successful private sector partner stands to gain Feed In Tariff (FIT) payment, which is a payment paid by one of the “Big 6 Energy Companies” to the generator for every kW of electricity produced from the panels. From the results of the financial appraisal (which has been scrutinised and supported by colleagues in Elevate and approved by the LAW Board and CMT Board), assuming an initial investment of £10M and considering ongoing maintenance and insurance costs minus the income from the FIT, the Net Present Value (NPV) of the investment after the initial £10M is paid back would be in the region of £3M at the end of the 25 years, and this is without taking into consideration a private developer’s economies of scale and access to low cost solar panels, which could increase the NPV.
- 5.8 With this likely contract value of £3M or more, the Council will be required to procure these services in accordance with the European Procurement Rules through the Official Journal of the European Union (OJEU).
- 5.9 The restricted OJEU process will be followed to enable the Council to validate and eliminate bids that are not fit for purpose, in a clear and transparent fashion. The first validation step will be the Pre-Qualification Questionnaire (PQQ) (technical evaluation stage), and this will be scored and evaluated based on a 70/30 split between technical expertise and sustainability questions. Only those suppliers deemed competent to proceed further will pass the PQQ stage and be sent an Invitation to Tender (ITT). Tenders will be evaluated based on a quality/price split, to be decided. The contract will be awarded on the Most Economically Advantageous Tender principle, i.e. the best value against the specification set out in the ITT.
- 5.10 The table below shows an indicative timetable for the next steps if the Council proceeded with an OJEU tender (restricted procedure).

Indicative Timetable if the Scheme is Tendered through restricted OJEU procedure

Stage	Date
Publish OJEU Notice	End January 2011
Submission of completed PQQ’s	Mid March 2011
Evaluation of completed PQQ’s	Mid March 2011 – End March 2011
Expected issues of Invitation to Tender	End March 2011
Expected date for submission of Invitation to Tender	Mid-end May 2011
Evaluation of Tender Submissions	Mid-end May 2011 – Mid June 2011
Potential Interview Meetings	Start-mid June 2011
Notification of Result of Evaluation	Mid June 2011
Contract Start Date	Start July 2011

Staffing Issues

- 5.11 Although it is proposed that a private development partner will be appointed to undertake all aspects of the project, it is important to note that there will be internal staffing requirements this could include staff to:
- monitor and oversee the project;
 - provide legal support including drawing up agreements and dealing with right to buy issues;
 - facilitate tenant engagement and consultation events;
 - gain access to properties.

All these costs must be met by the tenderer.

- 5.12 In addition, part of the tender process will be to ascertain ways that the private development partner can provide local training and job creation opportunities in relation to the project. It is envisaged that this could include opportunities in relation to surveying properties, installation and post monitoring and maintenance of the panels.

Customer Impact

- 5.13 Rising fuel bills will affect most people; however it will have a greater impact on low income households who tend to live in poor energy efficient housing. These households can suffer from what is called fuel poverty. A household is said to be in fuel poverty if it needs to spend more than 10% of its income on fuel to maintain a satisfactory heating regime (usually 21 degrees for the main living area, and 18 degrees for other occupied rooms).
- 5.14 Fuel poverty is significant in the borough, owing to the fact that a high proportion of residents are on low income. The 2009 income figures for the borough indicate that household income is the second lowest in London, being 18% below the average figure for London (CACI Paycheck, 2009). Based on the Index of Multiple Deprivation 2007 average rank, our borough is ranked 11th highest of all Local Authorities nationally. The borough has 17 wards of which 5 are ranked within the 10% most deprived wards in England and a total of 14 wards are ranked within the 20% most deprived. These figures suggest that fuel poverty and poverty in general are significant issues for the borough.
- 5.15 In order to address this issue, the scheme will target those most vulnerable and those that suffer from fuel poverty, by targeting those areas of the borough identified in the 10% most deprived in England.
- 5.16 The electricity generated from the solar PV panels will be made available to the tenant of the property for consumption, free of charge. It is broadly assumed that 50% of the electricity generated will actually be used by the tenant (given that most properties are not occupied during the full 'generating day'. The remaining energy will be exported back to the grid as 'green electricity'.
- 5.17 For housing blocks it will prove to be unviable to provide electricity to each individual dwelling. Therefore for those housing blocks included in the scheme, the following options will be considered: a) utilising the electricity for communal areas including for the lifts and lighting to reduce service charges or b) sell the electricity

generated back to energy suppliers and reinvest the revenue generated into housing.

- 5.18 It is perceived that there could be barriers to targeting this scheme at the most vulnerable, especially in relation to the housing project. This includes language barriers and ensuring appropriate information dissemination. In order to reduce the risk it will be imperative that clear information is provided to residents with the use of 'Plain English' techniques as well as providing a translation service.
- 5.19 In addition, in order to understand the needs of our customers in terms of implementing the project, it will be imperative that through appropriate consultation exercises our customers are involved in the design and planning of the programme. In order to ensure this is appropriate throughout the life of the scheme, regular customer satisfaction exercises will be planned.
- 5.20 Other customer impact considerations include providing access to properties for site surveys, installation and ongoing maintenance for both the schools and housing. As the private development partner will be entering tenant's houses and schools, CRB checks of all staff to enter the property will be required. For the schools element, all works and maintenance are to be completed during holiday periods with the exception of emergency works.

Safeguarding Children

- 5.21 In relation to the schools project the income from the roof rental will help offset the schools energy bills and so free up resources to be spent on the school.

Health Issues

- 5.22 The proposal will have a positive impact on health issues locally. The project will help to reduce the number of tenants in fuel poverty. Therefore this will reduce the associated health impacts of fuel poverty, including reducing the number of excess winter deaths each year.

Crime and Disorder Issues

- 5.23 There is the potential that the proposal could increase the incidence of crime, in terms of theft and vandalism of the panels locally. It will be in the interest of the private development partner appointed that such crime is minimised, including by using security fixing bolts, alarms, identifiers and tags. It will be up to the appointed private development partner to ensure the panels and any associated equipment is adequately insured for the duration of the contract.

Property / Asset Issues

- 5.24 There is a risk that instead of the property value rising due to the PV panels on the roof that the value could decrease. This is due to the fact that the potential of the property for loft conversions would be restricted once the panels are installed. For example, if the Council or the leaseholder under right-to-buy, decided to convert the attic into an extra room, windows could not be included where the panels are installed. For any tenant with ambitions to exercise their right to buy at any time in

the future, this could be a very powerful reason to resist inclusion of their property into the scheme.

- 5.25 Through the Decent Homes Programme the Council replaced a large proportion of roofs and indicative figures from the Public Housing Stock Condition Survey suggest that 87% of the Council's housing roof space is suitable for the panels. This information will be vital to steer investment. The PV panels should only be installed on roofs that have been maintained/or replaced in the last 5-10 years and, to be eligible, the roof must have a lifetime of at least 25 years to reduce costs.
- 5.26 As mentioned tenants have a right to buy their property. Clauses within the sale agreement should allow the private development partner that invests in the panels, to maintain ownership of the panels, access rights for maintenance and to ensure payment of the FIT export payment to the private development partner after sale of the property and by future owners of the property over the remaining period of the FIT scheme.
- 5.27 Should the Council decide to transfer its housing stock to another organisation, a clause in the transfer agreement would be needed to allow the Council, or the private development partner that invests in the panels, to retain ownership of the panels/equipment and to ensure payment of the FIT to the private development partner after transfer of the stock. Should the Council decide to invest in the panels, in the event of a stock transfer it may wish to have an agreement requiring the transfer organisation to pay the residual value of the panels and so assign the rights of the payment to the new landlord.
- 5.28 Under the proposal the Council will have less control over the project and it could be argued that the private development partner would 'cherry-pick' the most commercially viable properties rather than targeting the most vulnerable households or those in the greatest need. Therefore the tender and contract will need to be specified in such a way to ensure the selected partner focuses initial investment in the jointly agreed most deprived areas of the Borough with the highest incidence of fuel poverty.

6. Options appraisal

- 6.1 As previously explained, the Team has been considering a number of different options to finance the installation of the panels. The other options considered are presented below along with the results from the cost-benefit analysis.

Option 2 – Alternative private finance model

- 6.2 EM Power is a social enterprise with charitable status. EM Power has presented an alternative model which is essentially a profit sharing arrangement whereby a proportion of the FIT income is shared with the Local Authority through a 'Community Fund'. This 'Community Fund' could include local stakeholders including the Local Authority and local Housing Associations. EM Power is backed by investors who provide the up-front finances to invest. In return the investors receive a guaranteed rate of return, funded by 80% of the FIT income. The remaining 20% FIT income is provided to the Community Fund. Again tenants will receive a proportion of the electricity, free of charge.

- 6.3 EM Power would require a Roof Access Agreement for 25 years. This would not be a lease; therefore there would be no roof rental income for the Council. Furthermore, under this arrangement EM Power would not assume any of the risks or ongoing maintenance, management or monitoring obligations. Instead, the revenue that goes into the Community Fund, as well as helping to pay for community projects, such as energy efficiency programmes, will cover the costs of these obligations.
- 6.4 The results of the financial appraisal has revealed that under **Option 2**, once the maintenance and management costs are covered, there would be little, if any, funding available within the 20% of the FIT income nominally set aside for the 'Community Fund' to actually deliver community projects. The 'Community Fund' under this model can therefore be argued to be illusory and of no potential benefit/added value. **Option 2** is therefore rejected.

Option 3 – Self-financed by prudential borrowing

- 6.5 The third option that has been assessed is for LBBB to procure, install, manage and monitor the installation of the panels, with the initial capital costs funded through prudential borrowing. Therefore, under this model, LBBB would cover all capital costs take on the risks and management obligations but would be the recipient of all FIT income over the lifetime of the scheme.
- 6.6 The options appraisal also established that **Option 3**, is not an advantageous route to delivery. The results indicate that, under this scenario, the Council is at risk of incurring significant costs that would be much higher than the revenue generated from the tariff. The main reason for this is due to comparatively and relatively high prudential borrowing rates available to the Council. In addition, unlike a private company that may be implementing a number of FIT schemes across the country, the Council would not be able to benefit from economies of scale and lower unit costs. Finally, the financial deficit would be made against a corporate borrowing burden of up to £10,000,000. The wisdom of the Council assuming extra borrowing and exposure to losses on its investment could not be supported irrespective of current financial pressures.

7. Background Papers Used in the Preparation of the Report:

- "Solar Panels for Council Housing and Schools under the Feed In Tariff", CMT Report, 19th January 2011
- "Solar panels for Council Housing and the Corporate Estate", LAW Board, 18th November 2010
- "Feed-in Tariffs Government's Response to the Summer 2009 Consultation" Department for Energy and Climate Change (2010) - http://www.decc.gov.uk/assets/decc/Consultations/Renewable%20Electricity%20Financial%20Incentives/1_20100204120204_e_@@_FITsconsultationresponseandGovdecisions.pdf
- "Making Feed-in Tariffs work for you. A toolkit for Local Authorities and Housing Associations", Energy Saving Trust (2010) - <http://www.energysavingtrust.org.uk/business/Business/Local-Authorities/Funding/Feed-in-Tariffs>

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THE CABINET

15 FEBRUARY 2011

REPORT OF THE CABINET MEMBER FOR CHILDREN AND EDUCATION

Title: Children's Personal Support Framework Agreement	For Decision
<p>Summary: Children's Services procures Personal Support services, also known as Domiciliary Care or Home Care from a number of local care agencies on a spot-purchase basis. This report seeks approval for the tendering of services in the form of a Framework Agreement, in an East London Solutions exercise to be led by the London Borough of Redbridge and also including Havering and Waltham Forest.</p> <p>The proposed arrangement is anticipated to secure more competitively priced services, as well as significantly better quality assurance through the improved monitoring of providers.</p> <p>Wards Affected: All</p>	
<p>Recommendation(s)</p> <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none"> (i) Agree to proceed with the proposed joint procurement (with LB Redbridge, LB Havering and LB Waltham Forest) of a Children's Personal Support Framework Agreement, on the terms detailed in the report; and (ii) To indicate whether it wishes to be further informed or consulted on the progress of the procurement and the award of the contract, or whether it is content for the commissioning Chief Officer to award the contract; (as provided for in the Constitution, Contract Rules 13.3). 	
<p>Reason(s)</p> <p>This will support the Council Priority of "Inspired and Successful Young People" and particularly of "Focusing on looked after children and those with learning difficulties and disabilities". The outcome will be to secure better value personal support services and make better use of the budget supporting the disabled children's team. At the same time an effective quality assurance programme will be put in place to ensure that services are of good quality.</p>	
<p>Comments of the Chief Financial Officer</p> <p>There are no direct financial costs of being part of the framework and it is anticipated that the monitoring of the framework can be carried out with the existing resources. The Short Breaks grant has now been pooled into the Early Intervention Grant and cash protected by the Government. The direct benefit and savings from being part of the framework are difficult to quantify at present but will be monitored closely.</p>	

Comments of the Legal Partner

1. This report is seeking Cabinet's approval to enter into a joint arrangement with three other East London Boroughs for the procurement of personal support services for children, via a Framework Agreement to be established by the London Borough of Redbridge on behalf on behalf of four East London Boroughs - LB Barking and Dagenham, LB Redbridge, LB Havering and LB Waltham Forest.
2. The Government has for some time now been actively encouraging collaborative working between local authorities. As far back as 2006, the Local Government White Paper – "Strong and Prosperous Communities" – encouraged joint commissioning of services by local authorities and highlighted its potential benefits, including achieving economies of scale.
3. The Public Contracts Regulations, 2006 (the "EU Regulations") allows local authorities to enter into Framework Agreements with service providers, following a competitive EU tendering process, and to select service providers to provide particular services, as and when required, from the Framework Agreements thus established.
4. Although the services to be procured under the proposed Framework Agreement are Part B Services and the full rigour of provisions of the EU Regulations do not therefore apply to the procurement, because the estimated value of the services exceeds the EU threshold for services (currently £156,442), there is nevertheless a legal obligation to comply with the general EU Treaty principles of equal treatment of bidders, non-discrimination and transparency in procuring the services.
5. The report states that the Framework Agreement to which this report relates will be tendered in the EU using the restricted procedure – a two-stage tender procedure in which expressions of interest are invited from interested providers with shortlisted applicants being invited to tender. This satisfies the EU Treaty principles of equal treatment of bidders, non-discrimination and transparency.
6. In compliance with Regulation 19(10) of the EU Regulations, the report states that the proposed Framework Agreement will not exceed a four-year period.
7. This report anticipates that selection of service providers from the Framework Agreement, to provide the services to the Council as and when required, will be undertaken by way of mini-competition.
8. This complies with the provisions of the EU Regulations which allows selection of service providers from a duly established Framework Agreement either by way of "call-off" (i.e. without further competition), or by holding a further mini-competition with the service providers on the Framework Agreement.
9. In deciding whether or not to approve proposed joint procurement of the Framework Agreement, Cabinet must satisfy itself that the proposed joint procurement will represent value for money for the Council.
10. In accordance with Contract Rule 3.6.4, the report is additionally requesting that Cabinet confirm whether it wishes to be further informed or consulted on the progress of the procurement and/or the use of the Framework Agreement, or whether is content for the

Corporate Director for Children’s Services to monitor the progress of the Framework Agreement procurement and, upon conclusion of the procurement, to award personal services contracts for children, as and when required by the Council, using the Framework Agreement.

11. Cabinet has the discretion to decide to be directly involved in the progress of the Framework Agreement procurement and award of the contracts to be let under it, or, pursuant to Section 15 (6) of the Local Government Act 2000, to delegate this responsibility to officers.

12. The Legal Partner (Procurement, Property and Planning) confirms that there are no legal reasons preventing Cabinet from approving the recommendations of this report.

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1. Background

1.1 Children’s Services provides Personal Support Services principally for children with a disability as an element of their care package. At present these services are spot-purchased outside of any contractual arrangement.

2. Proposal

2.1 Children with disabilities and their families benefit from Personal Support (sometimes referred to as Domiciliary or Home Care) in a number of ways. It enables and supports children and young people with a disability to live ordinary family lives and participate in activities that anyone can enjoy; and provides their families with much needed short breaks from their caring role. Approximately 80 children and their families benefit from this type of service. Workers are employed via a care agency to provide one or more of the following tasks:

- personal care to a child including washing and feeding
- personal support as guided by the child/young person and their family, including supervising in the home whilst the parent has a break, supervising out of the home, playing and occupying the child, escorting and enabling access to mainstream services for all
- Support to families to prevent breakdown of the home situation and prevent children needing to come into the care of the Local Authority.

2.2 Well-organised services provided by carers and care agencies with sufficient skills and supervision perform a vital role in supporting children with disabilities and their families. The previous government recognised the value of “short breaks” to families

through a grant programme of investment in a range of services to all local authorities with lead responsibility for children, as well as PCT's as a key element of the Aiming High for Disabled Children programme from 2008-2011. The present government has announced that the Short Breaks programme will continue, with the grant subject to a "protected" status, meaning that it will not be ringfenced as previously, but its use will be subject to monitoring.

- 2.3 Within Barking & Dagenham the amount spent on home-based care for children with disabilities grew from £221K in 2008-09 to £577K in 2009-10, partly financed by the Short Breaks grant, although it is not anticipated that there will be a correspondingly similar increase in 2010-11. This increase shows the commitment to support families in their own homes rather than separate children where it can be avoided. Good Personal Care services should support a child in remaining within their home by alleviating the stresses on parents and helping the child to participate in community activities. However, this type of support can attract complaints and criticism if it is not well-organised or of sufficient quality, with parents typically complaining of:
- different carers being provided, causing confusion or distress to the child
 - carers not arriving promptly
 - carers not being sufficiently skilled to undertake particular tasks.
 - single staff arriving where two are required for more demanding tasks
- 2.4 There are many advantages of a contractual framework over spot-purchasing. Quality assurance monitoring can take place, both with regard to statistical returns, as well as regular meetings with providers. Good practice and training opportunities can be shared amongst providers and forums held with local parents. Good quality services based in the child's home should contribute to reducing demand for the most expensive forms of care such as residential homes and schools.
- 2.5 The particular contractual method recommended to Cabinet, that is a Framework Agreement, would have additional advantages. It would not oblige the local authority to purchase any particular volume from a provider, and it would not set any schedule of charges, meaning that competition between providers on the Framework could continue to take place, driving down costs. However, this does mean we will have a list of competitive, high quality providers for some of our most vulnerable children. The detail of the evaluation of the quality of providers is described in section 5.2.9.
- 2.6 As the tender would be issued on behalf of the participating East London Solutions authorities, the quality assurance requirements would be identical, leading to efficiencies on the local authorities' side in their respective commissioning and procurement services. The London local authorities involved in the tender other than Barking & Dagenham are Redbridge, Havering & Waltham Forest.
- 2.7 With the prospect of personalised services for children being a requirement in the future the Framework Agreement will play a key role as a prelude. Developing a collaborative approach to establishing the Personal Services/Domiciliary Care market, encouraging innovation, driving up service quality and realistic pricing will all support the transfer of decision-making and financial responsibility to parents and carers of children with disabilities.

- 2.8 Children's Services is at an early stage of developing its plans for personalised budgets for children. There be much learning to be gained form the experiences of Adult Services in its planning and implementation, but it is clear that this development is more likely to be successful with the active involvement of parents groups, voluntary sector organisations and particularly from the service providers themselves. There is a considerable culture shift to be undertaken in placing children and their families at the centre of this service, and for all agencies to understand that choice and control will rest substantially with the service user.
- 2.9 Personalised services for adults has encouraged the growth of the service providers own initiative in working with families to develop flexible services that move away from the more rigid approach of traditional care plans. It is intended that a key element of this proposed contract is to establish regular forums with providers that can be built on to develop good practice.
- 2.10 The Framework Agreement will apply to all Care Packages placed after the Contract start date. In order to maintain continuity of Service for children and their families all existing Care packages will remain with the existing providers so long as the Service is carried out to the satisfaction of the service user and of the local authority's Authorised Officer. The service will continue until such a time as the service naturally ends or a service review takes place.

3. Financial Issues

- 3.1 There are no specific financial implications associated with this proposal. Relative costs to the department should in the worst case remain the same or more likely decrease in proportion to the number of children involved, as Call-Offs will be awarded on the lowest price for each new Care Package, based on the rates submitted in the Schedule of Rates, with all technical ability requirements to undertake work having been satisfied in order for the organisation to be appointed to the Contract. That said, consideration will be given to the wishes of individual service users and their parents/carers when awarding Call-Offs. There will be some cost in officer time associated with monitoring arrangements.

4. Legal Issues

- 4.1 The European Public Sector Procurement Directive defines a framework agreement as *"an agreement with suppliers, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and quantity"*.
- 4.2 If several contractors are included in the framework, then there must be at least three of them, with the framework broadly setting-out the terms of a contract. Any of the contracting authorities can then invoke the framework agreement and establish a contract with any of the successful contractors. A safeguard is that a framework agreement can only last 4 years (except in 'exceptional circumstances').
- 4.3 If one authority wants to vary the contract, they must open it up to competition to all the contractors included in the framework. However, it cannot be substantially amended from the terms laid down in that framework agreement. It is essential therefore that the terms required by Barking & Dagenham are established from the outset.

5. Other Implications

5.1 Risk Management

There are no specific heightened risk management issues in relation to the tender.

As a Framework Agreement there is no specific guarantee to any provider of a level of service. A Framework on behalf of up to six boroughs is likely to attract a higher level of interest from potential providers than Barking & Dagenham alone, so encouraging more competitive pricing and minimising the risk from default by any individual provider.

The risk to service users will be minimised considerably through providers being held to certain quality standards within the terms of the Framework Agreement.

5.2 Contractual Issues

5.2.1 The proposed procurement procedure to be followed will be an EU tender process using the restricted procedure. Tenderers will particularly be required to have an office base in one of the local authorities participating in the Tender. The market for domiciliary care providers is a varied one, with providers varying from small local establishments to large national companies, although the latter have concentrated on large-volume Adult Care services and have shown no interest in the more individualised nature of services for children. The advantages of localised service providers will be more responsive services with a better knowledge of conditions in east London, the increased likelihood of driving up quality and development of the local workforce through partnership working.

5.2.2 It is envisaged that a call-off arrangement within a Framework Agreement will have several advantages for the local authority, as well as the proposal that a tender is sought for the boroughs participating in the East London Solutions grouping. Service Providers will be required to indicate their prices in a pricing schedule, recognising that payments will vary depending on the time of day, weekend and bank holiday delivery, or whether one or two workers are required at a time.

5.2.3 There will not be any objection to upgrading the service required so long as it remains within the scope of the specification. It will also be possible for agencies to alter their pricing within the Framework in order to attract more business.

5.2.4 Comparison of all of the Care Agencies being used by the East London Boroughs has shown that there are not less than twelve being used, compared to four that Barking & Dagenham has spot-purchased from in the year 2009-10. It is likely therefore that there will be sufficient candidates satisfying the selection criteria and will submit compliant bids meeting the award criteria.

5.2.5 The call-offs could (within the duration of the Framework) be for any length of time. The requirement for the service could be continuous, or for a specific period, for example to provide additional support in a school holiday.

5.2.6 The individual call-offs (that is, individual care plans) within the Framework will be a matter for each local authority, although service monitoring and quality assurance

measures will be shared as far as possible in order to make efficiencies and compare performance.

5.2.7 If selected for a Call-Off Contract, the Provider shall be required to complete and return an individual contract prior to commencing the Service.

5.2.8 The Contract Award Criteria are proposed to be 60% Technical Ability, 30% management and Operating Procedures and 10% Price. As stated in 3.1 above, thereafter Call-Offs under the Contract will be awarded on lowest price. This arrangement will ensure that providers are selected initially for the quality of their service and having secured a place on the framework, that pricing is the key determining factor. Tenders shall be evaluated and scored on a points system with one percent equating to 10 points. Therefore technical ability at 60% of the overall Award Criteria equates to a maximum points allocation of 600.

5.2.9 The evaluation criteria for have been developed by all of the participating Boroughs and are as follows:

Technical Ability (as established within a Method Statement)

- Personal Care and Support
- Care Workers
- Child Protection
- Ability to meet the Service Specification
- Equalities
- Quality Assurance

Management and Operating Procedures (as established within a Method Statement)

- Operational Policies and Procedures
- Recruitment and Selection Processes
- Performance Management

Price

- The most economically advantageous Tender

5.3 Staffing Issues

There are no direct staffing implications associated with this proposal as TUPE will not apply to the Contract. As the tendering exercise is being conducted by East London Solutions and led by the London Borough of Redbridge, the exercise will be less demanding of officer time both in the commissioning and monitoring phases, than an exercise solely of Barking & Dagenham.

5.4 Customer Impact

5.4.1 The service is provided for approximately 80 children with disabilities, including autistic-spectrum disorders, learning disabilities and profound and multiple disabilities. It is also occasionally used for children who are not disabled but whose parents require support because of illness or disability. The provision of Personal

Support is vital in enabling families to live ordinary lives and participate in everyday activities for all.

- 5.4.2 Whilst there is no existing contract on which to monitor service user satisfaction, it is anecdotally understood (as stated in section 2.3 above) that Domiciliary Care / Personal Services can attract complaints and criticism if it is not well-organised or of sufficient quality. The implementation of the proposed Framework Agreement will introduce a clear quality assurance process to better safeguard the interests of families and provide clear pathways for highlighting and resolving complaints.
- 5.4.3 In practice many care agencies try to match families with workers who are of the same or similar background, or have an understanding of a family's particular circumstances, although this is not always possible. The Framework Agreement will uphold the importance of matching carer and family and this be closely monitored. Personal Care work is not well paid and the workforce tends to be significantly drawn from the recent immigrant communities. Partly to address this the better agencies put emphasis on communication training for their staff, but it does mean that matching of carer to service user is weakest for the white British community. Steps to address recruitment will be monitored and addressed within the Contract and the opinions of service users and families be expected to inform choice of carer.
- 5.4.4 Management Information supporting the recording of Care Packages has significantly improved, and the Short Breaks programme has required a good level of intelligence regarding the needs of the local population and the development of services. Records of ethnicity of the children aged 0-18 receiving this form of support show that 44% are of white British origin and 34% are black African, being respectively an under and over-representation of both the total borough population and known disabled child population. That said, the records kept on children receiving all forms of short break (including voluntary sector youth clubs, after-school activities, summer schemes, etc) show that the ethnicity of service users is in proportion to the borough population. Many families also access this service through Direct Payments where again the ethnicity monitoring shows take-up is proportional to the borough population.
- 5.4.5 The proposed arrangements will have significantly better quality assurance arrangements than exist presently. Management information will be collected on a borough wide and east London Solutions-wide basis and hence complaints, comments and compliments can be routinely monitored and investigated at an individual as well as borough-wide and East London Solutions-wide level. The emphasis on regular meetings with providers will ensure that providers share best practice and are aware of changes in demand based on participating boroughs refinements in management information. Should any anomalies arise in service delivery; the anticipated participation of around fifteen Providers will give more options should it be necessary to change providers.
- 5.4.6 The anticipated introduction of personalised services and Individual Budgets for children will be supported by close working with providers. It is possible that some families may struggle in the transition to personalised services and to managing budgets and directly employing carers. Closer working between the local authorities, provider services, young people, parents and parents groups will better ensure a clearer process that supports all service users.

5.5 Safeguarding Children

The local authority would only make use of carers who have enhanced CRB checks, have insurances and all appropriate training to carry-out the functions for which they are engaged. Sec 11 compliance will also be a key requirement. Agencies are also registered with and inspected by the Care Quality Commission (CQC) to further assure standards of care. No provider would be used who received an unsatisfactory rating from the CQC.

The proposal will formalise all good practice and legal requirements in regard to expectations of the agency and to individual carers.

5.6 Health Issues

This proposal is intended to support the well-being of children with disabilities and their families through assisting in everyday activities, providing respite and enabling them to participate in activities that all families benefit from.

5.7 Crime and Disorder Issues

There are no specific crime and disorder considerations associated with this proposal.

5.8 Property / Asset Issues

There is no specific property/asset issues associated with this proposal.

6. Options appraisal

6.1 There is no options appraisal for this proposal.

7. Background Papers Used in the Preparation of the Report:

None.

8. List of appendices:

None.

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CABINET

15 FEBRUARY 2011

REPORT OF THE LIVING AND WORKING SELECT COMMITTEE

Title: In-Depth Review of Fly-Tipping Services	For Comment
<p>Summary: On the 26 July 2010 the Living and Working Select Committee (LWSC) agreed to carry out an in-depth scrutiny of Fly-Tipping services.</p> <p>The LWSC met between 26 July 2010 and 24 January 2011 to receive evidence, reports and presentations from service providers. The final report, which was agreed by the LWSC on 24 January 2011, represents the findings and recommendations that have emerged from the scrutiny review.</p> <p>In accordance with the Council's Constitution, Part C, Section F, paragraph 7, the LWSC is bringing the report to Cabinet for comment, prior to it being presented to Assembly for agreement.</p> <p>Once the report has been agreed by Assembly, the LWSC will ask the relevant departments to respond to the recommendations and for an action plan of implementation to be drawn up. After six months a progress report will be presented to the LWSC for monitoring purposes.</p> <p>A copy of the final report is attached as Appendix A.</p> <p>Wards Affected: All Wards</p>	
<p>Recommendation(s) The Cabinet is asked to consider the Living and Working Select Committee's final report and, if appropriate, make comments to inform the Assembly on 30 March 2011.</p>	
<p>Reason(s) To assist the Council in achieving its Community Priority to be a clean, green and sustainable borough where there is an awareness of what needs to be done to tackle climate change and reduce pollution, waste, fly-tipping (illegally dumping rubbish) and graffiti.</p>	
<p>Implications:</p> <p>Financial: It is anticipated that any financial requirements resulting from the recommendations in this report will be met from either existing Council budgets and/or Partner budgets. Options for external funding will also be investigated wherever possible. If agreed recommendations cannot be met from existing budgets, appropriate approvals will be sought from Council processes for the relevant financial resource.</p> <p>Legal: The legal provisions and guidance relating to fly-tipping are set out in the body of the report. The Council can work in partnership with local businesses and partners to combat the problem, including the use of CCTV.</p>	

Report Author: Councillor J Ogungbose Pat Brown	Title: Lead Member Senior Scrutiny Officer	Contact Details: Tel: 020 8227 3271 E-mail: pat.brown@lbbd.gov.uk
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Living and Working Select Committee



Fly-Tipping Services

Lead Member Foreword



As the majority of Members were newly elected, the Living and Working Select Committee agreed to undertake a short investigation into fly-tipping. This was an issue that affects the whole Borough and would assist in achieving one of the Council's priorities. The Borough cleaner priority states:

“ We want a clean, green and sustainable borough where we are all aware of what we need to do to tackle climate change and reduce pollution, waste, fly-tipping (illegally dumping rubbish) and graffiti. “

Fly-tipping is unsightly, impacts on the environment in terms of pollution and poses a danger to wildlife. Areas where the problem persists look neglected and gives out the impression that residents do not care about their local environment. Obviously this is not the case and together we need to get the message out that Barking and Dagenham is not going to tolerate this illegal behaviour.

The Council is already addressing the problem of Eyesore gardens which has proved popular with residents and a great success.

There is a push for local authorities and agencies to work together to achieve the delivery of efficient and effective services. This is particularly helpful in respect of fly-tipping when carrying out targeted campaigns across boundaries and sharing expensive resources, such as covert cameras.

Borough residents, Councillors and officers must work together as a team to identify offenders and effective ways to minimise the practice of fly-tipping.

The Select Committee has tried to put forward practical recommendations that will benefit residents, without being unrealistic and unachievable because of cost.

Councillor James Ogungbose

Lead Member of the Living and Working Select Committee

1 Introduction

The Environmental Protection Act 1990 Section 33 makes it an offence to “deposit controlled waste, or knowingly cause or knowingly permit controlled waste to be deposited in or on any land unless a waste management licence authorising the deposit is in force and the deposit is in accordance with the licence”. It goes on to state that it is also an offence to store controlled waste without a similar licence.

The penalties for such offences were increased by the Clean Neighbourhoods and Environment Act 2005 from £20,000 to £50,000 and a prison sentence of up to 12 months at the Magistrates Court or at the Crown Court a prison term of up to 5 years and a fine. Alongside this increase in penalties other provisions were made such as the power to require landowners to clear fly tips from their land, the power to recoup costs for clearing fly tips and the power to seize vehicles that have been involved in fly tipping. The act also extended the powers to prosecute householders whose waste turns up fly tipped and therefore places the responsibility on them to ensure anyone that takes their waste away is a registered waste carrier.

Section 34 of the Environmental Protection Act relates directly to businesses and places them under a Duty of Care to manage their waste in a proper and legal manner. In detail this means that waste must be stored securely and only put out when it is due for collection. If refuse escapes due to a ripped bag or tipped over bin etc, then the owner of that waste must retrieve it. The owner of the waste is responsible for their waste at all times until it is handed over to a person or organisation authorised to receive it.

2. Membership

The Living and Working Select Committee (LWSC) consisted of nine Councillors in the 2010-2011 municipal year:

- Councillor J Ogungbose (Lead Member)
- Councillor T Perry (Deputy Lead Member)
- Councillor Aziz
- Councillor R Baldwin
- Councillor J Channer
- Councillor J Davis
- Councillor A S Jamu
- Councillor G Letchford
- Councillor S Tarry

Pat Brown, Senior Scrutiny Officer, supported the Select Committee.

3. Choosing an Area for Review

The LWSC began its inaugural in-depth review on 26 July 2010 and chose fly-tipping.

This topic of fly-tipping was chosen as an area for intense scrutiny for the following reasons:

1. It was identified by Members as a persistent problem across the Borough.
2. Local Residents feel strongly about the physical appearance of their neighbourhoods.
3. National Indicator 196 – Improved Street and Environmental Cleanliness – Fly-tipping – was judged to be ‘poor’ in 2008/2009
4. The review would link to the community priority of a ‘clean’ Borough.
5. The cost to the residents of the Borough to clear indiscriminately discarded waste.
6. The cost of fly-tipping to the Borough is around £2.2 million per year.

4. Methodology

Terms of Reference (see Appendix 1) were agreed at the 26 July 2010 meeting.

Andrew Yellowley, Interim Head of Environmental and Enforcement Services, was appointed as Lead Services Officer to provide expertise and guidance.

Darren Henaghan, Corporate Director of Customer Services, was nominated as the LWSC Scrutiny Champion, supported the Select Committee throughout the review and helped oversee the delivery of the project in collaboration with the Lead Member and Scrutiny Officer.

The Select Committee met on 21 September 2010 and 6 October 2010. In addition to formal evidence-gathering, the Select Committee researched fly-tipping by undertaking a visit to problem locations, engaging in secondary reading and consulting with local people.

The LWSC heard evidence from senior officers, met with residents and business owners and Councillors. In its third meeting the LWSC brought together its findings and started to prepare the final report. The in-depth review concluded on 24 January 2011 when this report and its recommendations were agreed by the LWSC.

5. What Happens Next?

The report will be presented to Cabinet on 15 February 2011 for comment and then for consideration by the Assembly on 30 March 2011.

If agreed, an action plan outlining how the recommendations will be produced and thereafter monitored until each recommendation has been implemented. The first monitoring update will be heard by the LWSC in six months’ time.

When finalised and agreed, the findings of this report are to be publicised in the following ways;

- A downloadable copy will be made available from www.lbbd.gov.uk/scrutiny
- A brief summary of the report will be published in 'The News' and sent to other local newspapers.
- A downloadable copy will be made available from the 'Centre for Public Scrutiny' website.

6. What is Fly-Tipping?

Fly-tipping is the illegal dumping of waste and is a crime. It is a serious problem in England and Wales and can cost £100 - £150 million every year.

Fly-tipping:

- Is a criminal activity that can cause serious pollution of the environment, may be a risk to human health and can harm wildlife and farm animals
- Spoils the local neighbourhoods and quality of life
- Costs landowners and the taxpayer an estimated £100 million every year to clean up
- Costs local authorities £44 million each year to clear up
- Undermines legitimate waste management companies who are undercut by illegal operators
- Unsightly fly-tipped waste can deter investment in the area and lead to a lack of pride among local people

Waste can only be disposed of by holders of a Waste Management Licence or taken to an officially authorised site, such as Frizlands Lane, Dagenham.

The difference between litter and fly-tipping is the size and amount. Litter is usually small, such as crisp packets, discarded cigarettes or apple cores, whereas fly-tipping is larger items of rubbish, such as a sack of rubbish, fridges, sofas, tyres, mattresses or dangerous materials such as toxic waste, dumped on land.

People fly-tip to avoid paying a levy, called a landfill tax. An authorised officer, including the Police, can issue a Fixed Penalty Notice set at £300 to anyone transferring bulky waste without a Waste Management Licence.

In line with national protocols, where there are land quality and waste management issues, the Environment Agency tackles

- large-scale fly-tipping;
- fly-tipping of certain hazardous wastes; and,
- fly-tipping carried out by organised criminals.

7. Local Policy

The Local Authority is the designated Waste Collection Authority for Barking and Dagenham and tackles the clear-up of fly-tipping on publicly owned land, including roads and lay-bys.

Local Authorities are responsible for keeping the streets and public open spaces clear of litter and refuse and bear the cost of disposal. There is a specific policy in the Council's Waste Management Strategy 2005 - 2020 that outlines how the Borough will address fly-tipping.

All kinds of waste have been dumped illegally in Barking and Dagenham including household waste, commercial waste, animal carcasses, vehicle parts, tyres and hazardous oils, asbestos sheeting and chemicals.

The diagram below gives a snapshot of the local fly-tipping problem

Incidents and costs of dealing with fly-tipping in the London Borough of Barking and Dagenham (LBBB)

	LBBB 08/09	LBBB 09/10	LBBB 10/11 (to date)	Total
Number of Enforcement Notices	764	881	458	2,103
Number of Prosecutions	40	39	38	117
Number of issued fixed penalty notices	154	85	61	300
Number of paid fixed penalty notices	143 (92.8%)	66 (77.6%)	48 (78.6%)	257 (85.6%)

8. Findings and Recommendations

In compiling the findings, the evidence gathered by the Select Committee has been grouped into key themes, and recommendations are presented with the relevant themes to provide context. For ease of reference the recommendations can also be viewed as a list in Appendix 2.

9. Campaigns

In recent years LBBB has only run one campaign specifically targeted at fly tipping. It was a co-ordinated task project that was initiated due to the amount of crime happening on the Gascoigne estate. Actions included fly tipping – if a fly tip was spotted then the task force would clear it there and then. Other actions included removing graffiti and abandoned vehicles. The project was winner of London Problem Solving Awards 2008

Another environmental education event, which does not specifically target fly tipping but incorporates it, is the annual schools' quiz. The purpose of the quiz is to raise awareness of a variety of environmental issues, including global warming, recycling and environmental crime. The quiz has been extremely effective and is very

popular with students and teachers alike. Feedback from teachers has been that the quiz has been very useful.

Recommendation 1

The Living and Working Select Committee recommends:

- (a) Additional education in schools, highlighting that fly-tipping is illegal, enforcement penalties and the messages it sends out about the community; and,
- (b) High profile community campaigns to be undertaken setting out the cost to residents through council tax and the impact on the environment.

10. Reporting Incidents

The Council's website could play a significant part in the reporting and monitoring of fly-tipping incidents. Residents would be able to report incidents, track the progress of the removal of fly-tipped waste and any enforcement action that may be taken.

Recommendation 2

The Living and Working Select Committee recommends that the values of good customer service with resolution at the first point of contact are upheld in the customer interface of fly-tipping services and consideration is given to alternative best practice reporting initiatives.

Recommendation 3

The Living and Working Select Committee recommends that local people have the provision to track reported incidents of fly-tipping using the Council's website.

11. Working with Partners

The Council has the primary responsibility for dealing with fly tipping in its own area. The Environment Agency also has some powers to deal with fly tipping and do so in more rural areas where fly tipping can have a more significant impact on wildlife.

Although LBBD has not undertaken a great deal of working with partners, experience shows that this can work well. Examples of this can be seen across the country in areas such as Kent, where joint operations are run by the District Councils, the Environment Agency, Police, Her Majesty's Revenues and Customs, The Vehicle and Operator Services Agency, Driver and Vehicle Licensing Agency and the County Council. As large scale fly tipping is often linked to serious crime such as drug sales, these other agencies welcome an opportunity to investigate such unscrupulous individuals and businesses and many fines and convictions for other crimes have been gained in this manner.

Fly tipping is not just a local problem and it is believed that in many areas fly tipping does not originate with the borough's boundaries but may be brought from

elsewhere. Some authorities work together across boundaries sharing intelligence on known persistent fly tippers.

Recommendation 4

The Living and Working Select Committee recommends development of the Borough's intelligence sharing activities with neighbouring boroughs and national agencies, such as the Environment Agency and Her Majesty's Revenue and Customs. This would primarily be through involvement in GAIN (Government Agency Intelligence Network) or similar groupings.

12. Working with Residents

A particular problem that we face in Barking and Dagenham is due to the fact that many of our housing areas have rear alleyways. These alleyways attract a high level of fly tipping. Residents have got wise to the fact that if they leave any traceable evidence in the fly tip they are likely to be traced and fined. On many occasions they also claim that the fly tip was placed there by someone from another street or area.

One approach that we have had to this has been the very successful alley gating scheme. This scheme has seen a high number of rear alleyways gated with only the residents having keys, therefore if an alleyway is fly tipped, it can only be the residents that have caused the problem. This allows officers to then write to all of the residents who have access to the alleyway, informing them of the issue, educating them to the fact that this is not acceptable and warning them they may be fined and charged for clearance.

Recommendation 5

The Living and Working Select Committee recommends that residents should be encouraged to report incidents to help build a true picture of the problem and assist in collection of evidence.

Recommendation 6

The Living and Working Select Committee recommends residents should be encouraged to ask the right questions as to how any waste will be disposed of when engaging workmen to carry out home improvements to ensure it is being disposed of legally.

Recommendation 7

The Living and Working Select Committee recommends that, where there are areas of high rates of persistent fly-tipping, in given circumstances they are well lit and a more proactive use of gating orders put in place.

13. Use of surveillance

The use of overt or covert surveillance has also worked well in certain boroughs. Where there are known hotspots in areas, covert surveillance can be used to spot offenders and this information has successfully been used in prosecutions. LBBD currently has no covert surveillance equipment. Whilst this equipment can be expensive to purchase often the money is recouped through fines and costs awarded by the courts.

Recommendation 8

The Living and Working Select Committee recommends that current strategy is broadened to include, where feasible, purchasing and sharing of equipment with other boroughs, such as covert cameras.

A particular problem of fly-tipping occurs around commercial properties, such as retail shops, rear access and waste land. Members did not have any evidence of partnership working between the Local Authority and business proprietors who had CCTV installed at their premises. It was felt that officers should liaise with local businesses to ascertain whether they would make CCTV footage available should there be incidents of the illegal practice of fly-tipping.

Recommendation 9

The Living and Working Select Committee recommends the Local Authority liaise with local businesses in an attempt to reach agreement for them to share CCTV footage when fly-tipping has taken place in the local area.

14. Enforcement

The Council will use its enforcement powers to ensure all businesses comply with their duty of care around disposal of waste.

The Eyesore and Public Health Team within the Local Authority's Area Environmental Service deal with enforcement of all fly-tipping. The team, which consists of eight Environmental Health Officers and nine Environmental Enforcement Officers, deals with eyesore, environmental and public health issues

The Eyesore Gardens campaign was launched in October 2009 in response to residents' concerns about the number of rubbish-filled and overgrown front gardens in the borough. Residents and landlords who allow their front gardens to become untidy rubbish tips could face prosecution under this scheme.

Since the scheme started in October 2010, the Eyesore Gardens team has visited nearly 6,000 gardens, served over 600 legal notices, provided assistance to more than 150 residents and removed nearly 25 tonnes of waste from Borough gardens

The Public Health waste issues are the disposal of clinical waste.

There is a fine line to be taken with regard to enforcement. If enforcement is pursued it will mean that the illegally dumped rubbish must be left in place until all evidence can be taken. The danger with leaving the rubbish in place is that it will

inevitably attract further fly-tipping, because it sends a message that no one cares about that particular area. If the site is cleared quickly, it is less likely, at least in the short term, to attract further fly-tipping.

A decision also has to be made regarding cost comparison between clearing the site and proceeding with enforcement and prosecution.

The table below shows the cost between removal and enforcement compared with other neighbouring boroughs for the last six years.

Borough	Enforcement Total	Removal Total	Enforcement/ Incident	Removal/ Incident
Barking and Dagenham	£477,741.00	£1,738,671.00	£17	£60
Havering	£1,272,833.00	£1,837,719.00	£37	£53
Redbridge	£1,085,084.25	£1,139,088.00	£53	£55
Newham	£787,914.50	£8,216,224.00	£6	£63

Enforcement actions consist of investigations, warning letters, statutory notice, fixed penalty notice, duty of care inspection, stop and search, formal caution and prosecution.

Recommendation 10

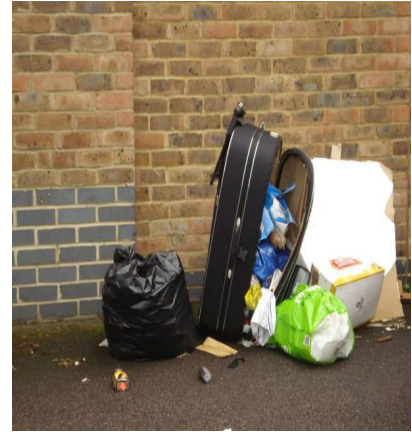
The Living and Working Select Committee recommends targeting of enforcement in areas of persistent fly-tipping and significant clean-ups and prosecutions should then be widely publicised to share that action has been taken.

15. Problem Areas

There was a need to develop partnerships with business to support the Council in overcoming the fly-tipping problem.

Members felt the response quoted to complainants to remove black bags in 48 hours was too long.

Officers felt that covert surveillance equipment would be useful. This would be particularly helpful in areas such as River Road where the problem of fly-tipping is constant. The equipment would help in identifying offenders to prosecute and report in the press. Also more signage to raise awareness of campaigns and their consequences would assist.



These pictures illustrate typical fly-tipped waste that had to be removed from various locations in the Borough.

Recommendation 11

The Living and Working Select Committee recommends the installation of clear signage to deter fly-tipping in problem areas.

16. Local Strategy Targets

The waste management needs of the new communities that will come to the borough as part of the regeneration of the Thames Gateway and the 2012 Olympics.

The intention of Barking and Dagenham is to become an excellent council in Corporate Priorities for Action (CPA) terms.

17. Background Papers

(See Appendix 3)

18. National Policy

The most recent data from fly capture is the 2008/09 data, that shows that on average local authorities in England has 3,295 incidents of fly tipping, which is significantly lower than the 7,275 incidents at Barking and Dagenham during the same year.

In that year there were over 1.1million incidents of fly tipping recorded by all local authorities in England and Wales with less than 2,000 prosecutions. This being said the average for all London Boroughs during the same year was 15,967.

19. Regional/sub-regional policy

The desire to maximise the benefits of the East London Waste Authority (ELWA) and Joint Municipal Waste Management Strategy (JMWMS).

21. Conclusion

The review was undertaken over a short period of time, however, it became apparent that there was no simple solution to the problem of fly-tipping. The following main points were identified:

- The London Borough of Barking and Dagenham does not suffer with disproportionately high levels of fly tipping compared with all London Boroughs or nearest neighbours.
- The costs of removing fly tipping are similar to that of neighbouring authorities.
- The money spent on enforcement is considerably less than two of the three neighbouring boroughs.
- The Council concentrates more on the removal of fly tips than on enforcement.
- The Council's enforcement capacity is limited and resource tends to be targeted at large campaigns, such as eyesore gardens, rather than routine investigations of fly tipping.
- The Council should endeavour to ensure the cost of legal waste disposal is kept as low as possible.

Reducing the number of incidents of fly-tipping and the cost burden to taxpayers is a national problem. However, the Local Authority's officers, together with Councillors, will continue to look at innovative strategies to improve the situation.

Terms of Reference

- To assess the levels of fly-tipping locally over the last 10 years
- To investigate the costs implications for removal and clean up to the Borough
- Assess if there are particular areas where fly-tipping reoccurs, i.e. social housing, owner occupier, commercial properties/areas, waste grounds
- To have a clear understanding of enforcement legislation
- What penalties for offenders of fly-tipping are in place
- To access past campaigns and the level of improvement that has been achieved
- To involve the community in the scrutiny process, provide them with opportunities to give evidence and inform the review
- To investigate whether services have equal access and equal outcomes across the Borough
- To consider any related equalities and diversity implications
- To ensure that any evidence collected is used appropriately
- To collaborate with partner organisations to identify opportunities where partner working could benefit the environment
- To consider the overall delivery of services, with an aim to improve any that are considered weak and addressing any gaps in service
- To review best practice in other local authorities
- To produce a final report with findings and recommendations for future policy and/or practice.

List of Recommendations

The following recommendations are set out here as a list, for ease of reference.

Recommendation 1

The Living and Working Select Committee recommends:

- (a) Additional education in schools, highlighting that fly-tipping is illegal, enforcement penalties and the messages it sends out about the community; and,
- (b) High profile community campaigns to be undertaken setting out the cost to residents through council tax and the impact on the environment.

Recommendation 2

The Living and Working Select Committee recommends that the values of good customer service with resolution at the first point of contact are upheld in the customer interface of fly-tipping services and consideration is given to alternative best practice reporting initiatives.

Recommendation 3

The Living and Working Select Committee recommends that local people have the provision to track reported incidents of fly-tipping using the Council's website.

Recommendation 4

The Living and Working Select Committee recommends development of the Borough's intelligence sharing of fly-tipping activities with neighbouring boroughs and national agencies, such as the Environment Agency and Her Majesty's Revenue and Customs. This would primarily be through involvement in GAIN (Government Agency Intelligence Network) or similar groupings.

Recommendation 5

The Living and Working Select Committee recommends that residents should be encouraged to report fly-tipping incidents to help build a true picture of the problem and assist in collection of evidence.

Recommendation 6

The Living and Working Select Committee recommends residents should be encouraged to ask the right questions as to how any waste will be disposed of when engaging workmen to carry out home improvements to ensure it is being disposed of legally.

Recommendation 7

The Living and Working Select Committee recommends that, where there are areas of high rates of persistent fly-tipping, in given circumstances they are well lit and a more proactive use of gating orders put in place.

Recommendation 8

The Living and Working Select Committee recommends that current waste strategy is broadened to include, where feasible, purchasing and sharing of equipment with other boroughs, such as covert cameras.

Recommendation 9

The Living and Working Select Committee recommends the Local Authority liaise with local businesses in an attempt to reach agreement for them to share CCTV footage when fly-tipping has taken place in the local area.

Recommendation 10

The Living and Working Select Committee recommends targeting of enforcement in areas of persistent fly-tipping and significant clean-ups and prosecutions should then be widely publicised to share that action has been taken.

Recommendation 11

The Living and Working Select Committee recommends the installation of clear signage to deter fly-tipping in problem areas.

Background Papers

Author	Title	Date
Living and Working Select Committee	Agendas and Minutes	2010 / 2011
London Borough of Barking and Dagenham	Barking and Dagenham Waste Management Strategy 2005 - 2020	28 March 2006
Environment Agency	Fly-Tipping Protocol	1 October 2010
Environment Agency	Fly-Tipping	1 October 2010
Environment Agency	Fly-Tipping Explained	1 October 2010
Keep Britain Tidy	Knowledge Bank - Fly-Tipping Legislation	
Department for Environment Food and Rural Affairs	Flycapture fly-tipping national database background	1 October 2009
National Fly-Tipping Prevention Group	Tackling Fly-Tipping	April 2006

Site Visits

Contributors:

- Darren Henaghan, Corporate Director of Customer Services
- Peter Tonge, Group Manager Area Environmental Services
- Andrew Yellowley, Interim Head of Environmental and Enforcement Services
- Angela Bennett, Executive Officer, Customer Services Department
- Colin Gregory, Environmental Officer
- Jeff Josh, Environmental Officer

Site Visits:

A tour of the borough was undertaken by Members to examine areas where there was a persistent problem of fly-tipping. This included industrial areas, the rear of commercial properties and residential properties.

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THE CABINET

15 FEBRUARY 2011

REPORT OF THE CHIEF EXECUTIVE

Title: Urgent Action – Clarification of Joint Working Arrangements with NHS Barking & Dagenham	For Information	
<p>Summary</p> <p>At its meeting on 2 November 2010, the Cabinet received a report on the key implications of the Health White Paper “Equity & Excellence: Liberating the NHS” which outlined new powers and responsibilities for local authorities in health, with responsibilities including leading on local health improvement and prevention activity, promoting joined-up commissioning, leading on the development of Joint Strategic Needs Assessment and ensuring the commissioning of robust arrangements for patient and public involvement. The <i>Healthy Lives, Healthy People</i>, the Public Health White Paper, published in December 2010, further set out the role of local authorities in public health, taking over this responsibility from the NHS and being the future joint employer (with the Chief Medical Officer) of the Director of Public Health.</p> <p>As part of the transitional process, officers from both organisations undertook considerable work to ensure that the existing funding agreements between NHS Barking and Dagenham and the Council were captured within formal arrangements under Sections 75 and 256 of the National Health Service Act 2006. The services covered within the agreement are, for the most part, existing services.</p> <p>At the point that the Council was finalising its arrangements, it was expected that the agreements would be signed by the parties on 28 January 2011. While it would have been possible to have sought formal Cabinet approval on 25 January regarding the Council’s position (the report that was produced, together with relevant appendices, is attached at Appendix A) the decision would have been subject to the call-in process until midday on 2 February. Therefore, in the circumstances and following consultation with appropriate Councillors, the Chief Executive dealt with the matter under the Urgent Action provisions of the Constitution.</p> <p>It should be noted however that subsequent events outside of the Council’s control meant that NHS Barking and Dagenham was unable to sign the agreements on 28 January. NHS Barking and Dagenham now advises that it anticipates that the agreements will be signed towards the end of February.</p> <p>Recommendation</p> <p>The Cabinet is asked to note the action taken by the Chief Executive under the urgency procedures contained within paragraph 17 of Article 1, Part B of the Council’s Constitution in authorising the Corporate Director of Adult and Community Services to enter into an agreement with NHS Barking and Dagenham for the continued joint commissioning and delivery of services as outlined in this report.</p>		
Head of Service: Nina Clark	Title: Divisional Director of Legal and Democratic Services	Contact Details: Tel: 020 8227 2114 E-mail: nina.clark@lbbd.gov.uk

Background Papers

- Letter and enclosures from the Chief Executive of 26 January 2011 entitled “Urgent Action under Paragraph 17, Article 1, Part B of the Constitution – Contracts with NHS B&D under Sections 75 and 256 of the NHS Act 2006”.

List of Appendices

- **Appendix A** – Report and appendices re “Clarification of Joint Working Arrangements with NHS Barking & Dagenham”

CABINET

JANUARY 2011

REPORT OF THE CABINET MEMBER FOR HEALTH AND ADULT SERVICES

Title: Clarification of Joint Working Arrangements with NHS Barking & Dagenham	For Decision
<p>Summary:</p> <p>In July 2010 the Coalition Government set out its long-term vision for the future of the NHS in the White Paper 'Equity and excellence: Liberating the NHS'. The paper sets out how the NHS will increase choice to ensure that patients are put at the heart of everything the NHS does, and continuously improve outcomes for patients. There will be significant change to the structure of the NHS locally and regionally. Local authorities will be given a much greater role in health, with responsibilities including leading on local health improvement and prevention activity, promoting joined-up commissioning, leading on the development of Joint Strategic Needs Assessment and ensuring the commissioning of robust arrangements for patient and public involvement. <i>Healthy Lives, Healthy People</i>, the Public Health White Paper published in December 2010, further set out the role of local authorities in public health, taking over this responsibility from the NHS and being the future joint employer (with the Chief Medical Officer) of the Director of Public Health.</p> <p>The Health & Social Care Bill will set out the legislative basis for these changes to the NHS, and it is expected that it will have been published by the time of the Cabinet meeting. With the direction of travel clear, in Barking and Dagenham we are wasting no time in setting up the necessary arrangements.</p> <p>With such a period of change imminent, it is essential that the basis on which local joint services are planned and managed is clear, in order to avoid frontline services being destabilised during the transition. A number of funding agreements exist between NHS Barking & Dagenham and Barking & Dagenham Council, many of which have grown up over a long period and which would benefit from greater clarity. Officers from both organisations have undertaken considerable work to ensure that these existing agreements are captured within formal arrangements under Sections 75 and 256 of the National Health Service Act 2006. The services covered within the agreement are, for the most part, existing services. The agreement on Public Health begins the process of establishing a new division within the Council containing, as its core, the current Health Improvement department for the PCT.</p> <p>Wards Affected: All</p>	
<p>Recommendation(s)</p> <p>The Cabinet is recommended to:</p> <p>(i) Authorise the Corporate Director of Adult & Community Services to enter into an agreement with NHS Barking & Dagenham for the continued joint commissioning and delivery of services as outlined in this report. The overarching agreement will contain five Section 75 and three Section 256 agreements between the Council and NHS Barking and Dagenham.</p>	

<p>Reason(s)</p> <p>The overarching agreement with NHS Barking and Dagenham contributes to the Council's Vision of 'Working together for a better borough', most particularly through assisting the Council in achieving its Community Priorities of 'Healthy' and 'Safe'. The NHS is about to enter a period of considerable transition, and this makes it particularly important that frontline services, or joint commissioning plans, have a clear contractual basis between our respective organisations. Furthermore, the agreement will ensure that the borough is ahead of schedule in meeting the proposals set out within the NHS White Paper in advance of any resulting legislation, whilst helping to deliver the Health and Wellbeing Strategy.</p>		
<p>Comments of the Chief Financial Officer</p> <p>The Chief Financial Officer has reviewed the proposals and is satisfied that officers are proposing commitments which are in line with existing budget allocations and do not exceed expected available allocations over the two years of the agreement. Further, she is satisfied that the governance arrangements, whilst placing some constraint upon both parties concerning the movement or withdrawal of funds, do not place any unacceptable risks to the Council's ability to manage its budgets in the years ahead. Having initiated discussions on the resources available from within the agreement for the management of such a substantial additional commissioning responsibility, and having received suitable assurances, she is also assured that the Council will be able to manage these agreements and co-ordinate delivery against their requirements without placing a significant, unfunded burden on its existing resources.</p>		
<p>Comments of the Legal Partner</p> <p>The Council has statutory powers under the National Health Service Act 2006 to enter into partnering arrangements (under Section 75) and direct funding arrangements (under Section 256) with NHS Barking and Dagenham. The Legal Partner is satisfied that there are no legal issues that would prevent the Cabinet approving the entering into of an overarching agreement with NHS Barking and Dagenham which will contain a number of these partnering and direct funding arrangements.</p>		
<p>Head of Service: Anne Bristow</p>	<p>Title: Corporate Director Adult and Community Services</p>	<p>Contact Details: Tel: 020 8227 2300 E-mail: anne.bristow@lbbd.gov.uk</p>
<p>Cabinet Member: Councillor Linda Reason</p>	<p>Portfolio: Health and Adult Services</p>	<p>Contact Details: Tel: 020 8724 8013 E-mail: Linda.reason2@lbbd.gov.uk</p>

1. Background

1.1 On 12 July 2010 the Government published the NHS White Paper, *Equity and Excellence: Liberating the NHS* which sets out the Government's long-term vision for the future of the NHS and how it intends to devolve power from Whitehall to patients and professionals. The key proposals include:

- Consortia of GP practices will take control of £80bn from primary care trusts by 2013 to commission acute, community and mental health services.

- Local authorities will be given statutory responsibility for bringing health and social care together by taking on PCTs' public health functions
 - Plans to strengthen the local democratic legitimacy of the NHS through the establishment of new statutory Health and Wellbeing Boards
- 1.2 The implementation of the developments envisaged in *Liberating the NHS* will bring about considerable change to the local NHS, its institutions and the individuals within them. Appointments are being made to a new management structure for a cluster of PCTs, comprising Barking & Dagenham, Havering, Redbridge and Waltham Forest, to work through the transition years until PCTs cease to exist in 2013.
- 1.3 The Cabinet received a report on 2 November regarding the Implications of the Health White Paper for Barking and Dagenham, which set out a proposed plan for the transition to the new working arrangements. Cabinet agreed the Outline Transitions Plan (Minute 55), which included the following key tasks:
- Early transfer of the health improvement function to the Council;
 - Exploring opportunities to align, share and /or jointly commission services.
- 1.4 In the interim, the Government has also published its proposals for public health in England, under the heading *Healthy People, Healthy Lives*. This expands on the proposed transfer of public health from the NHS to the local authority. In particular, it includes provisions for:
- The joint appointment of the Director of Public Health between the local authority and the Chief Medical Officer, through Public Health England;
 - Public Health England will allocate ring-fenced budgets to local authorities, weighted for inequalities and with the chief executive as accountable officer, to enable them to secure better health outcomes for the local population. 'Shadow' allocations will be made in 2012/13, with full allocations introduced in 2013/14, and the grant will include many existing health-related funding streams;
 - A Public Health Outcomes framework is to be developed to set out a high-level vision and outcomes to be delivered at a local level. Areas with poor health outcomes will receive a 'health premium' to fund additional activity, linked to specific outcomes to be improved.

2 Proposal

- 2.1 Over years of partnership working between NHS Barking & Dagenham and the Council, a number of joint working and contracting arrangements have been developed. The documentation that supports these arrangements is in varying forms. In order to ensure that these services are not destabilised by debates about the terms of the agreements during the forthcoming period of transition, a contract is proposed within which formal agreement can be reached about key areas of services and the expectations of both parties, invoking the appropriate legislation as required.
- 2.2 The structure of the agreement will be an 'overarching agreement' setting out the broad terms of the contract between the Council and NHS Barking & Dagenham.

Within this, specific individual agreements, invoking specific enabling legislation, will then provide more detail to govern specific areas of business. The aims of the over-arching agreement between LBBD and NHS Barking and Dagenham are primarily to ensure that:

- Our focus on agreed local health priorities is maintained so that services are not affected in a way that is detrimental to local residents during the transitional period
- That the borough is well-placed to implement the anticipated change in statutory functions brought about through legislation in July 2011

2.3 The over-arching agreement sets out a contract between the PCT and the Council demonstrating how both organisations are contributing to the improvement of health and well-being in the borough. This is supported by four Section 75 and three Section 256 agreements (under the National Health Service Act 2006 – please see section 4 for explanations) which set out the detailed arrangements for the commissioning and delivery of local health services, including levels of funding and expected performance for each service area. A further Section 75 agreement for Learning Disability services, involving North East London Foundation Trust as a third signatory, would also be signed.

2.4 The over-arching agreement also delivers two of the key tasks as agreed by Cabinet in the Outline Transitions Plan (see 1.3)

Early transfer of the Health Improvement function to the Council

2.5 The Section 75 agreement for Public Health, contained within the over-arching agreement, deals directly with the interim relocation of the PCT's Health Improvement Team to sit alongside other Council resources. It is proposed that the new Health & Wellbeing Division will be hosted within the Adult and Community Services Department, pending any future decisions about appropriate structures and locations as the function develops.

2.6 This transfer will allow for the Council to be ahead of schedule while the implications of the NHS White Paper are realised through legislation. Further consultation will be undertaken at a Member and Officer level to ensure that the division is compliant with the emerging statutory duties as set out in the Health and Social Care Bill (released in January 2011) and to ensure appropriate integration with existing council services.

Exploring opportunities to align, share and /or jointly commission services

2.7 There are a further three Section 75 and three Section 256 agreements contained within the over-arching agreement. These are:

- Section 75 Adults (including mental health services, both residential and community-based);
- Section 75 Children's (including looked after children, safeguarding, disabled children's services);
- Section 256 Adults & Carers (including Integrated Care)

- Section 256 Reablement & Adult Social Care (dealing with new government allocations to the PCT intended for transfer to the Council to support increased pressures on adult social care);
- Section 256 Drugs and Alcohol commissioning;
- Section 75 Family Nurse Partnership

Further detail on these agreements and their contents, and how each contributes to the overall total, is contained in Appendix 1.

- 2.8 Further to the portfolio of agreements above, it is also proposed that a Section 75 agreement be entered into to cover joint learning disability services, principally the joint arrangements for the Community Learning Disability Team. This is a tripartite agreement, including NHS Barking & Dagenham, the Council and North East London Foundation NHS Trust, which has been under construction for some time. Due to the involvement of the third signatory, it cannot fall under the overarching contract. Nonetheless, it is a central part of the portfolio of services and commissioning activity being considered as part of this process.
- 2.9 The majority of these agreements relate to existing services and funding arrangements between the two organisations. However, a substantial amount of this has been informal arrangements between partners. The over-arching agreement will place these arrangements in a contractual framework, with the individual service area agreements being given their legal footing through the relevant sections of the National Health Service Act 2006.

3 Financial Issues

- 3.1 The over-arching agreement between NHS Barking and Dagenham and LBBD has significant financial implications for the borough. The agreement will ensure that £28.1m of partnership funding is secured to continue to deliver local health improvement priorities for the residents of Barking and Dagenham. This will include securing £16.4m of NHS funding to contribute to these joint arrangements, matched by £11.7m of Council resources. The overview of financial commitments is included at Appendix 1.
- 3.2 It is important for Members to note that in signing up to this over-arching agreement, the Council will be entering into a legal agreement on the amount of funding that we will contribute to the service areas until April 2013. Provision is made to allow partners to change their levels of commitment, or to move resources between schemes. However, this will place some restriction on Members' flexibility in terms of where any future cost-savings could be achieved in these particular areas, and any proposals to reduce funding would need to be dealt with carefully in negotiation with NHS colleagues.

4 Legal Issues

- 4.1 Local authorities and various NHS bodies (including Primary Care Trusts) are enabled by Section 75 of the National Health Service Act 2006 ("the Act") to exercise certain functions of each other within formal contractual partnering arrangements. Section 75 of the Act provides that any such exercise is permitted "if the arrangements are likely to lead to an improvement in the way in which those functions are exercised".

- 4.2 Section 75 of the Act, and accompanying Regulations issued by the Secretary of State allow for flexibility in how such partnering arrangements are structured, as they allow arrangements where one party commissions the services which are included in the agreement, in addition to allowing for joint commissioning of the services by both parties. The statutory provisions also provide a legal basis for both parties to fund the services which are included in a partnering agreement, as well as the legal basis for the provision of staff, goods and services in connection with the arrangements. Each of these aspects of the arrangements may be freely agreed between the parties and incorporated into the agreements.
- 4.3 The Regulations prescribe which functions may be included in a Section 75 arrangement and they also specifically exclude some functions of the Council. The Legal Partner is satisfied that the subject matter of the proposed arrangements is within the permitted areas of functions.
- 4.4 Section 256 of the Act provides the legal basis for direct funding agreements to be made under which the Primary Care Trust provides funding for the Council in respect of any 'health related' local authority function which the Council is performing. These arrangements are not partnering arrangements in the way in which Section 75 agreements are, and they do not involve either party exercising the other party's functions.
- 4.5 The proposal to incorporate a number of Section 75 and Section 256 agreements into a single overarching agreement does not create any legal issues, provided that the requirements of the Act and the Regulations (in terms of content) are complied with. There are no provisions in the Act or in the Regulations which would prevent the incorporation of a number of separate agreements into a single overarching agreement as is proposed.
- 4.6 Arrangements under Section 75 of the Act are in effect delegations of functions. The Council's Scheme of Delegation reserves the power to delegate functions (and to accept delegations) to and from other local authorities to the Assembly. However, there is no such reservation of power in respect of delegations to and from other public bodies, such as the Primary Care Trust. Accordingly, the statutory powers under the Act to enter into such arrangements may be exercised by the Cabinet within its executive capacity.
- 4.7 The Legal Partner has negotiated the terms and conditions of the overarching agreement with the legal representatives of the Primary Care Trust, and is satisfied as to its terms.

5 Governance implications

- 5.1 There is a clear governance structure set out in the agreements, specifying the level at which discussions should take place about different changes to, or evolution of, the agreements. This governance framework sits below the emerging Health & Wellbeing Board in the form of an Executive Steering Group, and the detail is included at Appendix 2, specifically a structure diagram outlining relationships and the terms of reference of the Executive Steering Group. Members would wish to note that the terms of reference for the Health & Wellbeing Board have been amended in line with previous discussions with Cabinet Members. Alongside GP commissioning representatives, this now includes a wider range of Elected Members as part of its membership, including Cabinet Members for Health & Adult

Services and Children & Education, as well as the Chair of the Health & Adult Services Scrutiny Committee. Initially in an observer capacity, new appointments will be formalised when the legislation governing Health & Wellbeing Boards has been clearer about expectations.

- 5.2 The overarching agreement will require the Council and the PCT to form the Executive Steering Group and to give the Executive Steering Group various powers of governance, guidance and review (*inter alia*) in relation to the services provided pursuant to the agreement. Under the Council's Scheme of Delegation, these are executive powers which are delegated to Chief Officers. In order for the Executive Steering Group to exercise its powers in accordance with the Council's Constitution and Scheme of Delegation, the appropriate Chief Officers will need to delegate such powers to the Executive Steering Group. However, this will be implicit given that the relevant Chief Officers will be members of the Executive Steering Group. The Executive Steering Group will not be able, under its Terms of Reference or otherwise, to exercise any executive powers which are reserved for Cabinet under the Scheme of Delegation.
- 5.3 The overarching agreement also requires the Executive Steering Group to refer some types of powers to the Health and Wellbeing Board, to make decisions on their recommendations. Until such time as the Health and Wellbeing Board has full statutory basis, the interim body will require the same authorisation and delegation from Chief Officers as the Executive Steering Group, for the same reasons as are described in 5.2.

6 Other Implications

Risk Management

- 6.1 There is a clear element of risk in entering into this agreement in terms of the Council being accountable for the agreed levels of performance set out. Officers have worked hard with PCT colleagues to outline a robust performance management framework for the monitoring of the agreements, built on realistic expectations of what is achievable with the level of funding. Further refinement will be necessary following signing of the agreement and before its commencement in April 2011. The agreement specifies that the final suite of measures will be approved by the Health & Wellbeing Board before April 2011, and refreshed again before April 2012. The agreement sets out the clear basis for these negotiations, as well as the consequences of any default and the basis on which underspends and overspends are dealt with between partners.
- 6.2 When agreed, appropriate updates will be made to the Adult & Community Services Department and Corporate Risk Registers to ensure that senior officers and members are monitoring any emerging concerns with the operation of the agreements.
- 6.3 The risk of not proceeding with the agreement is that, during a time of already uncertain financial context, there would be further instability around key services as the NHS moves to a sectoral basis for commissioning. Until relationships with both the four-borough NHS Sector and local GP commissioning groups have been more formally established, it places our joint commissioning at considerably less risk to ensure that it is contractually clear for the interim period.

Contractual Issues

- 6.4 In signing the over-arching agreement the Council will be entering a contract with the PCT until April 2013. A performance management framework is in place to monitor the contract. There is scope for some of the details of the individual 'Section' agreements to be revised during the course of the contract. It has been proposed that the Key Performance Indicators related to the service areas will be reviewed on an annual basis. In addition, the service specifications will be revised on at least an annual basis in line with the organisation's budget setting process, with a contingency process for undertaking revisions in-year.
- 6.5 The individual service areas as set out in the different 'sections' may be subject to further contractual arrangements depending on how the services are delivered. In each of these cases, any further procurement proposals will be carried out in line with European Union rules and principles and Council procurement rules. The agreement is clear on the standing financial instructions to be adopted for any further contracting or financial changes.

Staffing Issues

- 6.6 The main implications for staffing at this stage are in relation to the interim relocation of staff from the Health Improvement Department of NHS Barking & Dagenham to the Council. Pending future decisions about the longer-term structures, this will lead to a new division being created, in interim form, within the Council structure, proposed to sit within the Adult and Community Services Department. The division will be led by a Joint Director of Public Health, reporting directly to the Corporate Director of Adult and Community Services.
- 6.7 As mentioned earlier in this report, the relevant NHSB&D staff will be seconded to the Council in the short-term. Since this is an interim position, whilst the longer-term arrangements are worked through, TUPE regulations do not currently apply. The affected PCT staff have all been consulted on the secondment proposal, the consultation period for which finishes on 22 January.
- 6.8 Further consultations will be undertaken with Members and senior officers to ensure the divisional structure that is developed for the longer term is integrated into the work of the Council and to establish working relationships with existing Council services which contribute to the health improvement agenda.

Customer Impact

- 6.9 The proposals set out within the over-arching agreement are aimed at ensuring that local health services are stabilised during the transition period before the proposals set out within the NHS White Paper become statute. This reduces the chance that local residents feel negative impacts of any uncertainty over the coming months which may have otherwise been caused had these agreements not been made formally.
- 6.10 Many of the services that are covered within the agreements are for existing services and therefore will have completed Equality Impact Assessments in place, with actions to address any adverse impact.

- 6.11 The Health and Social Care Bill will put local government at the heart of improving health and wellbeing for their populations and tackling inequalities. The early transfer of the PCT Health Improvement function to the Council enables us to gain a headstart in integrating services to the benefit of our local residents. A full Equality Impact Assessment (EIA) has not yet been complete for this transfer. It is planned that this will be undertaken following the establishment of the Public Health division and further consultation to fully integrate with the Council (see 6.8)

Safeguarding Children and Vulnerable Adults

- 6.12 The agreements detail specific services that work directly to ensure that children and young people are safeguarded, particularly within the Children's Section 75 Agreement. Similarly, the agreements on adults include provision for joint work to support the local arrangements for safeguarding vulnerable adults. Provision for safeguarding is included in the emerging structure proposals for the NHS sector, but there is local concern that the resources allocated will be insufficient to provide the level of service previously experienced. These elements of our local agreements are, therefore, important.

Health Issues

- 6.13 The over-arching agreement and the appended Section 75 and 256s will have a positive impact on the health of the local population. The agreement will ensure that partnership funding is secured to continue to deliver the health improvement priorities that have been identified as priorities for this borough until 2013. Without the funding arrangements being formalised within these agreements, there is a risk that alternative commissioning decisions may have moved funding to other priorities, which may not have been those of local significance, and which would adversely impact on the health of the local community.
- 6.14 The transfer of the Public Health division to the Council will give the Authority the opportunity to integrate the work of the Public Health team with other appropriate Council services ahead of schedule (in terms of the legislation being passed through Parliament). This will benefit the local community through better joined-up working in relation to health issues and in particular areas such as Adult Social Care, Children's Services, Leisure, Environmental Health and Emergency Planning.

Crime and Disorder Issues

- 6.15 The agreements set out in the appendices will help to address crime and disorder issues in the borough. A contribution to Domestic Violence services is included within the Public Health Section 75, while the DAAT Section 256 contains the funding contribution from the Council and NHS Barking and Dagenham in terms of Substance Misuse. Both of these areas are priorities set out within the Community Safety Partnership Plan 2008-2011. Again, by securing the contributions within this legal agreement we can ensure that the funding for these priority areas is maintained.

Property / Asset Issues

- 6.16 There will be some impact on the Council's property and assets. The creation of a new division within the Council will mean that those staff that are seconded within

the transfer will need to be housed within a Council building. The Asset Management and Capital Delivery division have been involved closely with the transition work to enable this. It is proposed that the Public Health team will transfer from the Clockhouse to Barking Town Hall following the signing of the agreements.

6.17 Within the agreements, details are set out for the relevant premises that are used for the services described. As the agreements largely contain details of services that already exist, it does not propose the sale or purchase of any property/asset away from the Council's Capital Programme.

6.18 It should also be noted that there are many reciprocal arrangements between the health sector and the council for the accommodation of each other's staff groups, including at the Clockhouse (the adult commissioning team), the Child & Family Centre (the community learning disability team) and the Town Hall (public health functions).

7 Options appraisal

7.1 Within so complex an agreement, there are indeed many options as to what to include and what to leave out. The proposal put before Members has been subject to considerable work and scrutiny by officers to ensure that it offers the best balance of services included and those left out.

7.2 The principal alternative option, therefore, would be to do nothing and leave the funding arrangements in their current state. However, as a number of the agreements for the funding contributions remain relatively informal, this would leave the services at risk of being destabilised during this period of transition and uncertainty, and would leave commissioning officers with considerable negotiations to undertake with a changing set of partner commissioners. By entering into this legal agreement both organisations are setting out their commitment to improving the health and wellbeing of our local residents by securing the funding for these key projects until 2013.

8 Background Papers Used in the Preparation of the Report:

- Cabinet Report – Implications of the Health White Paper “Equity & Excellence: Liberating the NHS” for Barking and Dagenham (2 November 2010, Minute 55)
- Department of Health – Equity and Excellence: Liberating the NHS
- Department of Health - Healthy People, Healthy Lives

9 List of appendices

- Appendix 1 - Overview of Agreements, including financial commitments
- Appendix 2 - Governance of the agreement

Section 75/256 Agreements with NHS Barking & Dagenham

Summary Sheet to accompany the Report to Cabinet, 25 January 2011

Figures are for 2011/12 Financial Year	TOTAL	LBBB	NHSBD	NOTES
GRAND TOTAL	£ 28,132,263	£ 11,734,777	£ 16,397,487	As final negotiations continue, these figures may be subject to minor change.
SECTION 75 PUBLIC HEALTH	£ 9,493,924	£ 2,259,195	£ 7,234,729	
Health and Wellbeing Strategy	£ 128,000	£ -	£ 128,000	<p>Health at Work is managed through 'in-kind' deployment of the resources of both organisations. Alcohol resources are contained in the Section 256 Drugs & Alcohol.</p> <p>This agreement covers the transfer of Health Improvement (Public Health) to the Council, with these posts providing specialist advice, undertaking analysis to support health improvement interventions, and commissioning the work to deliver the Health & Wellbeing Strategy.</p> <p>The deliverables in the Health & Wellbeing Strategy form the basis of monitoring the effectiveness of this part of the agreement.</p>
HWB Strategy: 1 Smoking	£ 768,500	£ -	£ 768,500	
HWB Strategy: 2 Physical Activity	£ 729,500	£ 55,000	£ 674,500	
HWB Strategy: 3 Healthy Eating	£ 135,955	£ -	£ 135,955	
HWB Strategy 4: Depression and Emotional Wellbeing	£ 79,000	£ -	£ 79,000	
HWB Strategy 5: Sexual and Reproductive Health	£ 1,063,408	£ 49,000	£ 1,014,408	
HWB Strategy 6: Immunisation and Screening	£ 1,421,000	£ -	£ 1,421,000	
HWB Strategy 7: Health at Work	£ -	£ -	£ -	
HWB Strategy 8: Alcohol	£ -	£ -	£ -	
HWB Strategy 9: Death and Dying	£ 833,662	£ -	£ 833,662	
HWB Strategy 10: Domestic Violence	£ 545,000	£ 400,000	£ 145,000	
Health and Wellbeing: General (Adults)	£ 160,456	£ -	£ 160,456	
Health and Wellbeing: General (Children)	£ 500,000	£ 250,000	£ 250,000	
Health and Wellbeing: General	£ 1,873,152	£ 1,184,152	£ 689,000	
Health and Wellbeing: Public Engagement	£ 180,000	£ 100,000	£ 80,000	
Staff Non Pay	£ 16,000	£ -	£ 16,000	
Staff Pay	£ 1,060,291	£ 221,043	£ 839,248	
SECTION 75 ADULTS	£ 1,392,136	£ 477,237	£ 914,900	
Carers Face to Face	£ 29,583	£ 14,792	£ 14,792	Further work is underway to finalise the figures relating to spot purchasing, based on predicted activity.
MH Res. Care	£ 564,805	£ 21,845	£ 542,960	
Stepping Stones	£ 325,604	£ 213,581	£ 112,023	
Safeguarding: Deprivation of Liberty Safeguards; IMCA	£ 86,000	£ 49,500	£ 36,500	
Shaw Trust	£ 178,678	£ -	£ 178,678	
MH Advocate	£ 29,947	£ -	£ 29,947	
Porters Ave	£ 177,519	£ 177,519	£ -	
Spot purchasing	tbc	tbc	tbc	
SECTION 75 CHILDREN	£ 5,382,800	£ 4,224,000	£ 1,158,800	
Joint funding agreements for high cost placements LAC and SEN	£ 2,400,000	£ 1,600,000	£ 800,000	Further work is underway to finalise the figures for joint funding of high-cost placements, based on present agreements around individual children.
Portage service	£ 380,000	£ 190,000	£ 190,000	
PACT (Vol Sector)	£ 16,000	£ 8,000	£ 8,000	
Play Therapies (children with LD) (Adoption)	£ 1,582,000	£ 1,536,000	£ 46,000	
Contribution to Safeguarding Board	£ 129,800	£ 115,000	£ 14,800	
Aiming High	£ 875,000	£ 775,000	£ 100,000	
SECTION 75 LEARNING DISABILITY	£ 1,576,365	£ 565,000	£ 1,011,365	
Learning Disability Services, including funding for the joint Community Learning Disability Team	£ 1,576,365	£ 565,000	£ 1,011,365	Work was already underway on an agreement to cover these services.
SECTION 75 FAMILY NURSE PARTNERSHIP	£ 250,000	£ 125,000	£ 125,000	
Family Nurse Partnership	£ 250,000	£ 125,000	£ 125,000	A pre-existing agreement, being incorporated into the new arrangement.
SECTION 256 DRUGS AND ALCOHOL	£ 2,445,693	£ -	£ 2,445,693	
Substance Misuse Budgets - Pooled Treatment Budgets including main	£ 2,196,803	£ -	£ 2,196,803	These figures will be subject to change based on confirmed allocations for the Pooled Treatment Budget
Young Persons Substance misuse budgets	£ 217,540	£ -	£ 217,540	
Drugs resource	£ 31,350	£ -	£ 31,350	
SECTION 256 ADULTS AND CARERS	£ 4,602,345	£ 4,084,345	£ 518,000	
Integrated Care	£ 3,877,000	£ 3,477,000	£ 400,000	The figure for LBBB contribution to Integrated Care will reduce in the final agreement.
Support Services	£ 63,345	£ 20,345	£ 43,000	
Hospital Discharge	£ 662,000	£ 587,000	£ 75,000	
SECTION 256 REABLEMENT & ADULT SOCIAL CARE	£ 2,989,000	£ -	£ 2,989,000	
Reablement	£ 557,000	£ -	£ 557,000	These are new allocations received from Government.
To support social care where it benefits health	£ 2,432,000	£ -	£ 2,432,000	

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Schedule 10

Health and Wellbeing Executive Steering Group

DRAFT Terms of Reference

Constitution: The Council Cabinet and NHS B&D Board resolves to establish a group to be known as the **Health and Wellbeing Executive Steering Group (ESG)**.

Membership: The Membership of the ESG will consist of five senior officers from LBBd and three from NHS BD plus two representatives of the borough's GP Consortia (also representing the health sector) plus the Joint Director of Health Improvement (DPH).

The initial postholders to take up membership of the ESG have been agreed as follows:

Post Title	Organisation
Corporate Director of Adult & Community Services	LBBd
Corporate Director of Children's Services	LBBd
Borough Director ¹	NHS B&D
Director of Performance ¹	NHS B&D
Director of Finance and Estates ¹	NHS B&D
Joint Director of Health Improvement	NHS BD/LBBd
Corporate Financial Controller	LBBd
Head of Adult Commissioning	LBBd
Head of Children's Policy & Trust Commissioning	LBBd
GP Consortia Reps (one per Consortia)	'Health sector'
Board Support: Programme Manager, Health & Wellbeing	LBBd

With the agreement of the Health and Wellbeing Board either party may vary their membership within the overall balance represented above.

Quorum: A quorum shall be at least 2 members each from the Council and NHS B&D, at least one of which must be at (Executive) Director (NHS BD) or Corporate Director (LBBd) level.

Deputies: Members shall normally attend meetings or send a nominated deputy who can represent them with full authority

¹ Job title at time of drafting, may be subject to change

- Frequency:** Meetings shall be held at the same frequency as, and approximately 3 weeks before, the Health and Wellbeing Board, unless otherwise agreed.
- Authority:** The **Health and Wellbeing Executive Steering Group** is authorised to undertake any activity within its terms of reference.
- Aim/Purpose:** The aim/purpose of the **Health and Wellbeing Executive Steering Group** is to carry out the functions prescribed to it in the overarching partnership agreement [dated 28 January 2011] between NHS BD and LBBB in accordance with its terms and these terms of reference.
- Principles:** The principles of the Steering Group are:
1. To operate in an open, honest and accountable manner at all times.
 2. To listen respectfully and challenge constructively.
 3. To escalate key issues/concerns to the Health and Wellbeing Board and provide regular and ad-hoc performance and finance reports to that Board as required.
 4. To ensure active participation of key stakeholders when and where appropriate
 5. To ensure clear, regular and consistent communications are in place across LBBB and NHS BD and other interested parties as appropriate
- Functions** The functions of the **Health and Wellbeing Executive Steering Group** are as follows [numbers refer to Clauses in the Overarching Agreement²]:
1. Provide guidance to the Commissioning Scheme Manager [19.3]
 2. Provide guidance and directions to the Commissioning Scheme Manager with regard to the professional accountability of all professional staff [23.2]
 3. Develop and maintain an effective performance management regime, built around the KPI Spreadsheet, to ensure effective delivery, clear accountability and regular review of the Commissioning Scheme Services [20.1 and 20.2]
 4. Carry out Annual Reviews of the Services and to submit an Annual Report to the Health and Wellbeing Board summarizing the performance and delivery of the Services [21.1 and 21.2]

² Version 2 of the Overarching Section 75 Agreement circulated 12 January 2011

5. Consider and agree whether any changes shall be required to the KPI spreadsheet in the event that an additional Commissioning Scheme or Section 256 is added during a financial year or a Commissioning Scheme or Section 256 is varied or terminated [20.3]
6. Monitor the commissioning and provision of the Services and provide regular and ad-hoc reports, as agreed in the Performance Framework, to the Health and Wellbeing Board [19.4]
7. Monitor:
 - the performance of the Commissioning Scheme Manager and the Local Authority Provider in accordance with the Performance Management Framework
 - whether the Local Authority is providing or procuring the Section 256 Scheme in accordance with the agreed Service Levels including the Performance Indicators [52.1]
8. On the occurrence of an Emergency Event, convene a meeting on a date and at a place agreed by the Parties and advise ways in which disruption of the affected Commissioning Scheme Service can be mitigated [26.5.2 and 26.5.3]
9. In relation to Aligned Budgets, recommend to the Health and Wellbeing Board how any projected underspend greater than 10% of the Scheme or £45,000 (whichever is the lower) shall be utilised [29.19]
10. In relation to Aligned Budgets, recommend to the Health and Wellbeing Board how any projected overspend greater than 10% of the Scheme or £45,000 (whichever is the lower) shall be managed [29.26]
11. In relation to Pooled Funds, recommend to the Health and Wellbeing Board how any projected underspend greater than 10% of the Scheme or £45,000 (whichever is the lower) shall be utilised [30.19]
12. In relation to Pooled Budgets, recommend to the Health and Wellbeing Board how any projected overspend greater than 10% of the Scheme or £45,000 (whichever is the lower) shall be managed [30.25]
13. In the event of an overspend relating to Pooled Budgets, meet to discuss it [30.23]
14. Decide whether an application for a grant should be approved under clause 49.1 [49.2]
15. To take responsibility for ensuring effective and appropriate clinical and professional governance arrangements are in place for each of the Commissioning Schemes [Clauses 22.2 and 22.4]
16. Decide:
 - whether, if received, the grant will be treated as additional funds for the relevant Budget and/or as a replacing part of the contribution of one or both Parties for the financial year in which any payment is received;

- if the grant is to replace part of the contribution of both Parties the proportion of the grant that shall be allocated to the credit of each Party
 - how any repayment of the grant would be made if required.[49.3]
17. Where the grant relates to a Section 256 Scheme, decide:
 - whether, if received, the grant will be treated as reducing the Section 256 Payment by the PCT or will replace the funds that the Local Authority would otherwise have expended on the Service or be additional funds for the Local Authority to expend on the Services in the Financial Year(s) in which any payment under the grant is received
 - how any repayment of the grant would be made if required [49.4]
 18. Issue Deficiency Notices where applicable, and discuss and agree Remedial Action Plans [52.3 and 52.4]
 19. Endeavour to resolve any disputes referred to it [72.3]
 20. To identify and manage risks related to the delivery of the agreement
 21. To ensure that all relevant stakeholders are informed of, and where appropriate involved, in the performance of the Health and Wellbeing function

Reporting:

The minutes of all the **Health and Wellbeing Executive Steering Group** meetings (including an attendance record) shall be formally recorded and submitted to the Health and Wellbeing Board

V4.2

Monitoring and accountability to delivery of S75/S256 agreements

NOTE: This is solely focused on governance of these agreements; it is NOT the full structure of Health & Wellbeing Board and does NOT attempt to describe its full remit.

Public Service Board

Health & Wellbeing Board

Community Safety Partnership

Children's Trust

Formally independent of the Health & Wellbeing Board, but accountable to it for S256 Drugs & Alcohol

EXECUTIVE STEERING GROUP

Oversight of the effective delivery of integrated services and of the joint aims of the Health & Wellbeing Strategy

Other client group partnership boards, e.g. Mental health, older people...

S75 Adults & Carers and S256 Adults monitored here

Adults' Steering Group

Section 75 Public Health co-ordinated here

Public Health Joint Steering Group

Children's Health Group

Section 75 Children's managed through this group, accountable to HWB ESG for this, but to Children's Trust for broader delivery against ECM Be Healthy

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Learning Disability Partnership Board

Lead accountability for delivery of S75 LD sits with Adults' Steering Group, with contribution from LDPB - their role growing over course of the agreement

Smoking & Tobacco Alliance

Healthy Eating Taskforce

Domestic Violence Strategy Group

Well-being at Work Steering Group

Com Sport Physical Activity Network

Alcohol Alliance

District Immunisation Cttee

Sexual & Reprod've Health Board

These groups accountable to CSP, but to HWB ESG on matters of delivery against S256/S75

End of Life Steering Group

Emotional Health & Wellbeing Group

Public health deliverables of Environmental Health & Trading Standards reviewed through the Public Health Joint Steering Group

District Screening Committee

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By virtue of paragraph(s) 3, 4 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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