

**Notice of Meeting of the**

**ASSEMBLY**

**to be held on Wednesday, 24 February 2016  
commencing at 7:00 pm in the  
Council Chamber, Town Hall, Barking**



To all Members of the Council of the London Borough of Barking and Dagenham

Date of publication: 16 February 2016

Chris Naylor  
Chief Executive

Councillors and senior officers are also invited to attend a presentation by the Chair of the Growth Commission, Mike Emmerich, on the report of the Barking and Dagenham Growth Commission which will take place in the Council Chamber from 6.00 pm until 6.45 pm

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## **AGENDA**

**1. Apologies for Absence**

**2. Declaration of Members' Interests**

In accordance with the Council's Constitution, Members are asked to declare any interest they may have in any matter which is to be considered at this meeting. Members are reminded that the provisions of paragraph 9.3 of Part 5, Chapter 1 of the Constitution in relation to Council Tax arrears applies to agenda item 9 "Budget Framework 2016/17".

**3. Minutes - To confirm as correct the minutes of the meeting held on 2 December 2015 (Pages 3 - 16)**

**4. Minutes of Sub-Committees - To note the minutes of the JNC Appointments Panel held on 15 December 2015 (Page 17)**

**5. Death of Honorary Alderman Fred Jones MBE (Page 19)**

**6. Leader's Statement**

The Leader will present his statement.

**7. Appointments**

The Labour Group Secretary will announce any nominations to fill vacant positions on Council committees or other bodies.

**8. BAD Youth Forum Annual Report 2015 (Pages 21 - 30)**

**9. Budget Framework 2016/17 (Pages 31 - 52)**

**10. Treasury Management Strategy Statement 2016/17 (Pages 53 - 97)**

**11. Pay Policy Statement 2016/17 (Pages 99 - 109)**

**12. Council Constitution - Amendments to the Contract Rules to Comply with Legislation and Other Minor Changes (Pages 111 - 215)**

**13. Motions (Pages 217 - 229)**

**14. Questions With Notice**

**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.**

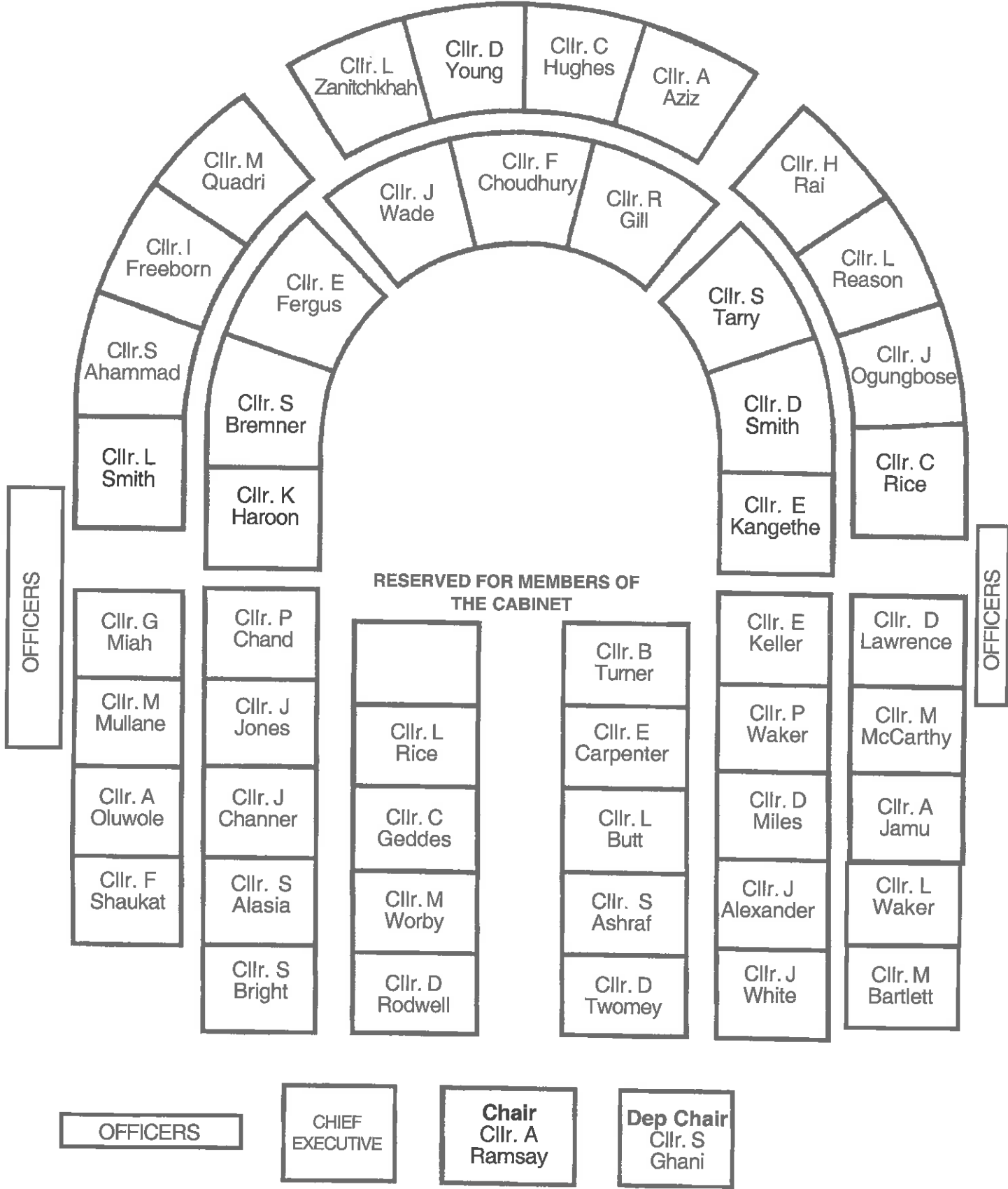
#### **Private Business**

The public and press have a legal right to attend Council meetings such as the Assembly, 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). ***There are no such items at the time of preparing this agenda.***

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

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# BARKING TOWN HALL COUNCIL CHAMBER



SEATING PLAN FOR THE ASSEMBLY

## **Our Vision for Barking and Dagenham**

### **One borough; one community; London's growth opportunity**

#### **Encouraging civic pride**

- Build pride, respect and cohesion across our borough
- Promote a welcoming, safe, and resilient community
- Build civic responsibility and help residents shape their quality of life
- Promote and protect our green and public open spaces
- Narrow the gap in attainment and realise high aspirations for every child

#### **Enabling social responsibility**

- Support residents to take responsibility for themselves, their homes and their community
- Protect the most vulnerable, keeping adults and children healthy and safe
- Ensure everyone can access good quality healthcare when they need it
- Ensure children and young people are well-educated and realise their potential
- Fully integrate services for vulnerable children, young people and families

#### **Growing the borough**

- Build high quality homes and a sustainable community
- Develop a local, skilled workforce and improve employment opportunities
- Support investment in housing, leisure, the creative industries and public spaces to enhance our environment
- Work with London partners to deliver homes and jobs across our growth hubs
- Enhance the borough's image to attract investment and business growth

## MINUTES OF ASSEMBLY

Wednesday, 2 December 2015  
(7:00 - 9:22 pm)

### PRESENT

Cllr Tony Ramsay (Chair)  
Cllr Syed Ghani (Deputy Chair)

Cllr Syed Ahammad	Cllr Jeanne Alexander	Cllr Saima Ashraf
Cllr Abdul Aziz	Cllr Simon Bremner	Cllr Sade Bright
Cllr Laila Butt	Cllr Evelyn Carpenter	Cllr Peter Chand
Cllr Josephine Channer	Cllr Faruk Choudhury	Cllr Edna Fergus
Cllr Irma Freeborn	Cllr Cameron Geddes	Cllr Rocky Gill
Cllr Kashif Haroon	Cllr Chris Hughes	Cllr Amardeep Singh Jamu
Cllr Jane Jones	Cllr Elizabeth Kangethe	Cllr Eileen Keller
Cllr Danielle Lawrence	Cllr Mick McCarthy	Cllr Giasuddin Miah
Cllr Dave Miles	Cllr James Ogungbose	Cllr Adegboyega Oluwole
Cllr Moin Quadri	Cllr Linda Reason	Cllr Lynda Rice
Cllr Darren Rodwell	Cllr Faraaz Shaukat	Cllr Danielle Smith
Cllr Sam Tarry	Cllr Bill Turner	Cllr Dominic Twomey
Cllr Jeff Wade	Cllr Phil Waker	Cllr John White
Cllr Maureen Worby	Cllr Linda Zanitchkhah	

### APOLOGIES FOR ABSENCE

Cllr Sanchia Alasia	Cllr Melanie Bartlett	Cllr Margaret Mullane
Cllr Chris Rice	Cllr Lee Waker	Cllr Dan Young

#### **27. Minute's silence as a mark of respect for the victims of the Paris terrorist attacks**

The Assembly stood and observed a minute's silence as a mark of respect for the victims of the Paris terrorist attacks.

#### **28. Declaration of Members' Interests**

There were no declarations of interest.

#### **29. Death of former Councillor Mrs Jean Bruce**

The Assembly paid tribute to former Councillor Mrs Jean Bruce who passed away on Tuesday 24 November 2015.

The Assembly noted that Mrs Bruce was first elected as a Councillor for Abbey Ward in May 1974. Mrs Bruce transferred to Valence Ward where she was re-elected in 1986 and continued to serve until her retirement in 2006. A number of Members paid tribute to Mrs Bruce's huge contribution to the Council.

The Assembly stood and observed a minute's silence in memory of Mrs Bruce.

### **30. Minutes (23 September 2015)**

The minutes of the meeting held on 23 September 2015 were confirmed as correct.

### **31. Minutes of Sub-Committees**

The Assembly received and noted the minutes of the JNC Appointments Panel held on 22 September 2015 and the JNC Salaries and Conditions Panel held on 17 November 2015.

### **32. Leader's Statement**

The Leader of the Council presented a verbal statement updating the Assembly on a range of matters which included:

- The Chancellor's Comprehensive Spending review, which was announced last week. Although precise details of the Council's position would not be available until after the local government finance settlement was announced shortly before Christmas, the Ambition 2020 programme would be looking at ways the Council could deliver better services with less money.
- The One Borough Newsletter, which was being emailed to no less than 55,000 residents every fortnight. Thanks were given to the Communications Team for producing the newsletter. The Leader took the opportunity to thank all staff in general for their hard work during the year. In particular there was a special mention for staff recently involved in Operation Shutdown, where an illegal race event in Renwick Road did not take place following proactive action by the Police and the Council.

### **33. Appointments**

There were no appointments to Council Committees and/or other bodies.

### **34. Appointment of Parent Governor (Secondary) Co-optee to the Children's Services Select Committee**

The Cabinet Member for Finance and Central Services introduced a report regarding the appointment of a parent governor (Secondary) Co-optee to the Children's Services Select Committee.

The Assembly **resolved** to agree the appointment of Tracy MacDonald to the position of Parent Governor (Secondary) Co-optee on the Children's Services Select Committee for a term of four years.

### **35. Adoption of London Councils' Code of Practice for Affixing Traffic Signs and Street Lighting to Buildings in London**

The Cabinet Member for Regeneration introduced a report regarding the adoption of London Councils' Code of Practice for Affixing Traffic Signs and Street Lighting



to Buildings in London.

The Assembly **resolved** to:

- (i) Note the new powers in the London Local Authorities and Transport for London Act 2013 (the 2013 Act) with regard to the erection of signage and street lighting on buildings in private ownership;
- (ii) Agree to adopt the London Council's Code of Practice "Affixing Traffic Signs and Street Lighting to Buildings in London" in relation to the London Local Authorities and Transport for London Act 2013 Part 2(4) with effect from 1 February 2016 to enable the Council to exercise the new powers; and
- (iii) Authorise the Strategic Director of Customer, Commercial and Service Delivery to publish notice of the passing of the resolution in (ii) above, in accordance with the requirements of section 3(4) of the 2013 Act.

### **36. Council Tax Support Scheme 2016/17**

The Cabinet Member for Finance and Central Services introduced the Council Tax Support Scheme 2016/17.

In response to questions from Councillor Gill, the Cabinet Member confirmed that:

- The Council would implement a clear policy to ensure it could set its own criteria of whom would qualify for a discretionary reduction;
- There had been no applications as yet; and
- There had been no reduction in Council Tax collection rates to date.

The Assembly **resolved** to agree that the Council Tax Support Scheme implemented for 2015/16 be retained for 2016/17, subject to the following minor amendments:

- To adopt the same non-dependant deductions that apply to Universal Credit applicants;
- Apply the lowest non-dependant deduction for those receiving work related or sickness benefits (to be specified);
- To realign Council Tax Support with the Housing Benefit legislation so that entitlement ends on the Monday following the last day of entitlement.

### **37. Treasury Management Strategy Statement Mid-Year Review 2015/16**

The Cabinet Member for Finance and Central Services introduced the Treasury Management Strategy Statement Mid Year review for 2015/16.

The Cabinet Member referred to the low energy street light replacement programme, which the Cabinet had approved at its meeting on 10 November 2015. The proposals would involve the replacement of the borough's existing street lights with low energy light emitting diode (LED) lanterns and entering into an agreement with the Green Investment Bank (GIB) to finance the procurement and replacement on an 'invest to save' basis.

In response to questions from Councillors, the Cabinet Member confirmed that:

- The Treasury Team were monitoring the Council's investments, particularly those at RBS and Lloyds, and would make sure the Council would not be exposed to risk;
- With regard to the Council's existing borrowing commitments, that they did not include any 'toxic' LOBO (Lender Option Borrower Option) arrangements, as stated at Assembly in July 2015; and
- The Council would continue to invest in schemes, where appropriate, with the GIB.

Clarification was sought by Assembly regarding the following end dates for LOBO's and the following confirmed by the Strategic Director, Finance and Investment:

- Barclays (LOBO) – confirmed end date 30/05/2078
- Dexia (LOBO) – confirmed end date 30/05/2077
- RBS (LOBO) – confirmed end date 30/05/2060
- RBS B (LOBO) – confirmed end date 30/05/2059

The Assembly **resolved** to:

- (i) Note the Treasury Management Strategy Statement Mid-Year Review 2015/16;
- (ii) Note that in the first half of the 2015/16 financial year that the Council complied with all 2015/16 treasury management indicators;
- (iii) Agree to maintain the delegated authority given to the Strategic Director of Finance and Investment, in consultation with the Cabinet Member for Finance, for the duration of the 2015/16 financial year to proportionally amend the counterparty lending limits agreed within the Treasury Management Strategy Statement to take into account the additional £89m from the European Investment Bank; and
- (iv) Authorise the Strategic Director of Finance and Investment to make the necessary adjustments to the Treasury Management Strategy to reflect the borrowing of funds and the Capital Financing Requirement to accommodate the additional borrowing arising from the Cabinet's decision under Minute 67, 10 November 2015 to finance the Low Energy Street Light Replacement Programme via the UK Green Investment Bank's Green Loan

### **38. Motions**

Moved by Councillor Twomey and seconded by Councillor Quadri.

"This Council notes, with regret, that the Housing and Planning Bill currently being debated in Parliament will have a negative impact on residents in Barking and Dagenham.

If passed in its current form, the Bill would threaten this Council's ability to provide truly affordable homes to rent and buy. It does nothing to help families and young

people on average incomes in our borough and fails to address the recent rise in homelessness.

This Council resolves to make our concerns public and support the Leader in writing to the Secretary of State to outline the negative impact that this Bill will have on residents in Barking and Dagenham.”

Members spoke in support of the motion and expressed their concerns that the Bill severely threatened the Council’s ability to provide affordable homes for the Boroughs residents. Concerns were also raised that the Bill had the potential to deplete the Councils housing stock by approximately 800 homes due to the changes proposed to the Right to Buy Scheme.

In response, Councillor Twomey expressed his thanks to Members for their supporting comments and expressed his disappointment with the Housing Associations acceptance of the Bill.

The motion was put to the vote by way of a show of hands and **carried**.

### **39. Questions With Notice**

#### **Question 1**

##### **From Councillor Ahammad**

“Can the Cabinet Member update us, after fifteen months of introducing the Private Rented Licensing Scheme (PRLS), what has been done so far to improve the quality of private rented housing in this borough?”

##### **Response**

Councillor Butt, Cabinet Member for Crime and Enforcement, advised that as from 1 September 2014, any landlord operating a privately rented house was required to have applied for a licence. Since the scheme started the Council had received over 11,000 PRLS applications and over 7,000 properties had been visited and assessed.

Of the circa 450 properties being visited a month, approximately 15% were being identified as initially failing the licensing standard and requiring enforcement. In most cases the Council were able to work with landlords to obtain compliance but for those that did not, the Council would use powers to enforce repairs, remove overcrowding or improve standards of safety. Where a notice was served, not only would the landlord be treated as a potential ‘Landlord of Concern’, meaning that their properties may be restricted to annual licensing, but they were also liable for a charge of £490 for any Housing Act notice served.

##### **Supplementary Question**

Councillor Ahammad asked if the Council had taken any action against landlords in the Borough.

Councillor Butt confirmed action had been taken.

## **Question 2**

### **From Councillor Ghani**

“Can the Leader update the Assembly on the proposals to build a tunnel called the Riverside tunnel beneath the A13, and what benefits it will bring our community of B&D?”

### **Response**

Councillor Geddes, Cabinet Member for Regeneration advised that the new tunnel would bring many benefits to the Borough, including unlocking land for 5,000 new homes and the creation of 100 jobs, removal of the Lodge Avenue flyover and the replacement of old industrial buildings with new homes. The proposal would also reduce pollution along the stretch of the A13 which was one of the five most polluted roads in London.

### **Supplementary Question**

Councillor Ghani enquired as to whether there was an update on the ferry crossing which had been proposed for 2025.

Councillor Geddes advised that work on the crossing would follow the commencement of the works on the tunnel.

## **Question 3**

### **From Councillor Shaukat**

“I am sure the Cabinet Member for Housing will share my concern at last week’s report in the Evening Standard about the rising rate of homelessness in London which has risen by 38% since 2012. The grant the Government gives local councils to tackle homelessness has dropped by £5m during the same period, and outer London Boroughs like Barking and Dagenham have been worst hit with B&D suffering a cut of 31%.

Can the Cabinet Member for Housing explain what we are doing to tackle the crisis in homelessness given the massively reduced support we are receiving from the Government?”

### **Response**

Council Ashraf, Deputy Leader and Cabinet Member for Housing, advised that in order to mitigate the impact of the reduction in homeless grant from Central Government from £650,000 in 2012/13 to the current annual grant of £415,000 the Council had developed a range of cost effective initiatives to reduce expenditure on homelessness. Examples included utilising decanted council stock as temporary accommodation and converting former residential homes for the elderly to Council-managed hostel accommodation.

### **Supplementary Question**

Councillor Shaukat asked for further information on hostel accommodation.

Councillor Ashraf advised that there was an ongoing demand for hostel and temporary accommodation, with 1647 households currently in temporary accommodation.

#### **Question 4**

##### **From Councillor Miah**

“Can the Cabinet Member for Crime and Enforcement update Assembly on what progress is being made in reducing burglaries in the borough?”

##### **Response**

Councillor Butt reported good progress, with a sustained reduction in burglary in Barking and Dagenham between March 2011 and October 2015 of 29%. This was one of the highest reduction rates in the North East London Area. A wide range of initiatives had been introduced including Met Trace, joint work between the Council and Police, and the relaunch of Neighbourhood Watch.

##### **Supplementary Question**

Councillor Miah asked for statistics on yearly crimes within the Borough.

Councillor Butt agreed to respond in writing

#### **Question 5**

##### **From Councillor Quadri**

“What assurances can the Cabinet Member for Crime & Enforcement provide that this Council is cracking down on rogue landlords who cause untold misery for people renting privately?”

Councillor Quadri confirmed his question had already been answered by the response given to question 1 from Councillor Ahammad.

#### **Question 6**

##### **From Councillor Choudhury**

“Fly-tipping is a growing problem in my ward and across the borough and its vital we do all we can to tackle the problem. Can the Cabinet Member for Crime & Enforcement let me know what action the Council is taking to tackle fly-tipping and if we can do more in the future?”

##### **Response**

Councillor Butt explained that the amount of fly-tipped material the Council had collected had fallen significantly, with a reduction of 45% between 2013/14 and 2014/15, saving £74,000 in disposal costs. The action being taken included making it easier for residents to report fly tipping, ensuring the Council's services for cleansing and waste were good, affordable charges for bulky waste collection and better monitoring of commercial waste contracts.

## **Question 7**

### **From Councillor Freeborn**

“Can the Leader set out what the Council is doing to raise awareness around the issue of violence against women and what support he has given this cause on behalf of the Council?”

### **Response**

Councillor Rodwell, Leader of the Council, explained that as part of the Council's support for the White Ribbon campaign, a range of activities and awareness raising events were held throughout the year to raise the profile of violence against women and girls. At a conference on 25 November, the Council launched an on-line directory of useful contacts for those residents who were experiencing domestic or sexual violence.

Councillor Rodwell also advised on activities that he had been personally involved in and informed Assembly that he would shortly be handcuffed to Councillor Butt to demonstrate the negative controlling aspect of domestic abuse.

### **Supplementary Question**

Councillor Freeborn asked the Leader to set out what was being done for the same sex community.

Councillor Rodwell, in response, took the opportunity to remind the Assembly that Councillor Bright was appointed last month as the Council's Women's and Equality Champion.

## **Question 8**

### **From Councillor Ghani**

“Can the Cabinet Member for Education let me know what progress is being made with the new £44m Barking Riverside School for 2,700 children and when it will be opening?”

### **Response**

Councillor Carpenter, Cabinet Member for Education and Schools, advised that she had attended the ground-breaking ceremony at the 23,000 square metre site for the Riverside Schools on 20 November. The current primary and special schools operating from temporary premises would move into the new school in September 2016 and the school would open fully in September 2017.

Councillor Carpenter took the opportunity to thank Mike Freeman and his team for their work to create school places for the rising population, and also James Hodgson and Judith Black, who prepared the application for funding amounting to £44 million.

## **Supplementary Question**

Councillor Ghani asked if Transport for London would be working with the school due to the additional volume of people travelling to the site.

Councillor Carpenter confirmed that the transport routes around the site were to be upgraded.

## **Question 9**

### **From Councillor Haroon**

“It would appear that following the Comprehensive Spending Review, the Chancellor gives with one hand and takes with another. Can the Cabinet Member confirm that George Osborne’s u-turn on scrapping cuts to tax credits for low-paid workers, freezing funding for the NHS, and slashing police budgets, will mean deeper cuts for local authorities like Barking & Dagenham?”

### **Response**

Councillor Twomey, Deputy Leader and Cabinet Member for Finance and Central Services, advised that the local government finance settlement was due to be announced in the coming weeks and only then would the impact of the Chancellors statement be known.

## **Question 10**

### **From Councillor Haroon**

“At a time when local families are looking to us to set an example by tightening our belts, can the Cabinet Member for Finance confirm whether the Council is on track to make management savings promised earlier this year?”

### **Response**

Councillor Twomey confirmed that the Council were making good progress in delivering the planned management savings. The Assembly noted earlier in the meeting the minutes of the last JNC Salaries and Conditions Panel, which had approved proposals that would result in savings of over £350,000 from the management structures.

The Chief Executive added that he expected to deliver further savings in management costs during the course of the next financial year.

## **Question 11**

### **From Councillor Fergus**

“Our parks and open spaces are a treasured part of our leisure offer in Barking & Dagenham and have a key role to play in attracting people to live here at the same time as being vital for existing residents. Can the relevant Cabinet Member provide an update on what is being proposed for Parsloes Park?”

## **Response**

Councillor Rodwell advised that a master plan for the park was being developed which would address a number of local priorities. A consultation process was currently underway which would help inform the development of the master plan. Furthermore, a funding strategy and a 10 year management plan would also be produced.

## **Question 12**

### **From Councillor Kangethe**

“Will the relevant Cabinet Member set out what the Council is doing to reduce energy costs so that these savings can be ploughed into saving jobs and improving services for residents?”

## **Response**

Councillor Geddes advised that the Council was looking at short, medium and long term schemes to reduce energy costs which included engaging with energy providers, using low energy bulbs in street lighting and negotiating renewable energy schemes for the Borough’s schools.

## **Question 13**

### **From Councillor Quadri**

“Can the Cabinet Member for Adult Social Care & Health outline what plans she has to enhance local health services for residents in the Borough?”

## **Response**

Councillor Worby, Cabinet Member for Adult Social Care and Health, explained that local health services were not in good shape and local hospitals were failing. This had led to the creation of new developments and ideas for pathways into urgent care. Work was also being undertaken to consider the introduction of an Accountable Care Organisation which could deliver both efficiencies and improved care over the coming years.

### **Supplementary Question**

Councillor Quadri enquired as to how the Council would assist the NHS with ever increasing pressures from new homes being built in the Borough.

Councillor Worby confirmed the Council would be doing everything it could to assist the NHS.

## **Question 14**

### **From Councillor Fergus**

“Since the last Assembly meeting in October, the Growth Commission has been launched made up of an independent panel of experts. How will members be engaged when it reports back?”



## **Response**

Councillor Rodwell was pleased to advise that some Members had already taken the opportunity to feed their views into the Commission, including Councillors Twomey, Ashraf, P Waker and himself. The Growth Commission was due present its report in January. Members would then have the opportunity to consider and comment on its recommendations.

## **Question 15**

### **From Councillor Shaukat**

“In times of growing austerity with dwindling Government support, the emphasis on securing external funding is crucial. No more so than in the arts which tends to be the Cinderella service, and the first to lose its funding. Can the relevant Cabinet Member advise me what success we have had in securing external funding for the arts?”

## **Response**

Councillor Rodwell advised that the Council had a strong record of securing external funding to enable the delivery of arts projects in the Borough that otherwise would be unaffordable. 2015 had been a particular good year with over £1.2 million external funding being secured directly by the Council or in partnership with others.

*Standing Orders were suspended at this juncture to enable the meeting to continue past 9.00pm.*

## **Question 16**

### **From Councillor Tarry**

“Can the Cabinet Member for Housing confirm exactly how many Council Houses, as opposed to 'affordable rent' properties, will become available on Marks Gate, as the Cloisters development of over 100 homes nears completion, giving the exact percentage of residents that will be moved from the local ward of Chadwell Heath?”

## **Response**

Councillor Ashraf confirmed the new development did not include any Council housing. Around 75% of homes had gone to people living or working in the borough with four of the homes allocated to people living directly within the Marks Gate neighbourhood.

## **Supplementary Question**

Councillor Tarry enquired as to whether the Church of England, a key partner, was aware of the change in policy and requested the Cabinet Member attend a residents meeting.

Councillor Ashraf advised she did not know if the Church of England had been advised of the policy however it had been advertised widely. Furthermore,

Councillor Ashraf felt there was no need for her to attend a residents meeting.

### **Question 17**

#### **From Councillor Keller**

“Can the relevant Cabinet Member please confirm if the ‘One Stop Shop’ based at Dagenham library will not be closing and will continue to serve the residents of this borough?”

#### **Response**

Councillor Twomey confirmed that there had been no decision made to close the Dagenham One Stop Shop, however savings had been agreed with Elevate regarding its operation in 2017/18.

#### **Supplementary Question**

Councillor Keller advised that she had been told by one of the voluntary groups occupying the One Stop Shop that it would be closing in April 2016 and asked for further clarification.

Councillor Twomey again confirmed it would not close in April 2016, however the Council were looking at all available options for future service provision including more online and digital services.

### **Question 18**

#### **From Councillor Keller**

“Can the relevant Cabinet Member please advise how many GP practices in the borough have been placed into ‘special measures’ by the Care Quality Commission (CQC)?”

#### **Response**

Councillor Worby confirmed that one practice in the Borough had been placed in special measures. The CQC had on 5th November 2015, published a GP practice inspection report on Abbey Medical Centre. The report raised a number of areas of concern and had concluded that the practice should be placed in special measures.

### **Question 19**

#### **From Councillor Gill**

“Barking & Dagenham has been highlighted in recent media reports as the worst place to live in the UK, having the lowest paid residents and life expectancy in London. Can the Leader of the Council please explain the reported decline in the borough?”

#### **Response**

Councillor Rodwell advised that on average, residents in the Borough earned £13.07 per hour which was not the lowest pay in London. The life expectancy

in the Borough had increased, with both men and women in Barking and Dagenham living three years longer, according to figures covering 2011 – 2013, than compared to a decade ago.

### **Supplementary Question**

Councillor Gill advised that the media had recently stated that the Borough had the worst schools in the Borough and asked the Leader to explain this.

Councillor Rodwell commented that the reports were sensationalised, similar to that of Right Move in previous months. He confirmed that good news was coming out of the Borough on a regular basis.

### **Question 20**

#### **Councillor Gill**

“Can the relevant Cabinet Member please advise what actions are being taken to deal with the recent increase in burglaries in Longbridge Ward and violent crime in Barking?”

#### **Response**

Councillor Butt referred to her answer to question four and confirmed that there have been some increases in burglary in some wards including Longbridge, however it was hoped that the projects outlined in her earlier response would impact on the number of burglaries.

### **Supplementary Question**

Councillor Gill, in commenting on a suggested major increase in burglaries asked what the Council was doing to hold the Police to account.

Councillor Butt refuted the suggestion of a major increase in burglaries and advised she would set up a meeting with Councillor Gill to discuss the issues raised.

### **Question 21**

#### **From Councillor Tarry**

“Can the Council Leader commit to do the following in relation to the Government’s Trade Union Bill: To continue to offer a “check-off” service - the ability of trade union members to have their subscriptions deducted at point of payment to all members of staff in Barking & Dagenham, in spite of Government attempts to remove and if this is not possible, to deliver a local plan to enable alternative methods of payment?”

#### **Response**

Councillor Rodwell confirmed his commitment.

### **Supplementary Question**

Councillor Tarry enquired as to whether elected Councillors who were also active members of trade unions would be involved in the drawing up of proposals regarding alternative methods of payment.

Councillor Rodwell advised that members from the three local unions would be involved in discussions regarding the proposals to ensure they were progressed in the best way possible.

## **MINUTES OF JNC APPOINTMENTS PANEL**

Tuesday, 15 December 2015  
(4:10 - 5:30 pm)

**Present:** Cllr Darren Rodwell (Chair), Cllr Saima Ashraf, Cllr Evelyn Carpenter, Cllr Edna Fergus, Cllr Eileen Keller and Cllr Dominic Twomey

### **23. Declaration of Members' Interests**

There were no declarations of interest.

### **24. Private Business**

It was **resolved** to exclude the public and press from 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 1 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended).

### **25. Appointment of Divisional Director of Finance**

The Panel considered the papers that had been submitted in advance of the meeting which included the recruitment pack for the post of Divisional Director of Finance, incorporating the job description, person specification, CV's and supporting statements from the two internal candidates.

Members reviewed and agreed the presentation topic and interview questions prior to the commencement of the interview.

Following the interview, Members discussed the presentation and responses to the questions by both candidates at length and reached a unanimous decision.

The Panel **resolved** to appoint Kathy Freeman to the post of Divisional Director of Finance.

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## ASSEMBLY

24 February 2016

<b>Title:</b> Death of Honorary Alderman Fred Jones MBE	
<b>Report of the Chief Executive</b>	
<b>Open Report</b>	<b>For Information</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
<b>Report Author:</b> Leanna McPherson, Democratic Services Officer	<b>Contact Details:</b> Tel: 020 8227 2852 E-mail: <a href="mailto:leanna.mcpherson@lbbd.gov.uk">leanna.mcpherson@lbbd.gov.uk</a>
<b>Accountable Divisional Director:</b> Fiona Taylor, Director of Law and Governance	
<b>Accountable Director:</b> Chris Naylor, Chief Executive	
<p><b>Summary:</b></p> <p>The Assembly is asked to note with deep regret that former Councillor, Mayor, Freeman and Alderman of the Borough, Fred Jones, passed away on 19 January 2016.</p> <p>Mr Jones had lived in the Borough for over 80 years. He was first elected to the Council in 1964 to represent Fanshawe ward, a position that he fulfilled up to May 2002 before being elected to represent Parsloes ward for four years. Mr Jones stood down from the Council in May 2006. During his 42 years on the Council, Mr Jones was chairman of the Libraries Committee, vice-chairman of the Education Committee and served on various other bodies, including General Purposes, Leisure and Amenities, Policy Advisory and the Dagenham Town Show committees.</p> <p>In addition, Mr Jones served on many external organisations including the Barking Arts Council, Barking and Dagenham Voluntary Service Association, Barking and Dagenham Old Peoples Welfare, Barking and Gospel Oak Line Committee, Becontree Widows Club, Barking Operatic Society, Abbeyfield (Barking) Society, Cloud House (Abbeyfield Home) Management Committee and the Witten Association. He was also the president of Barking Music and Drama (MAD) for the past 23 years and was often part of the front-of-house teams, selling programmes and raffle tickets while meeting and greeting audiences.</p> <p>Mr Jones was elected by his peers as Mayor of Barking and Dagenham in 1990/91 municipal year and he was awarded Freeman of the Borough in 1985. In 2006, he was bestowed with the highest award that a Borough can give by becoming an Honorary Alderman in recognition of his outstanding service to the Borough.</p> <p>Mr Jones was awarded the MBE in the Queen's Birthday Honours List 2012 for his services to the community in the Borough.</p>	
<b>Recommendation</b>	
The Assembly is asked to stand for a minute's silence as a mark of respect.	

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## ASSEMBLY

24 February 2016

<b>Title:</b> BAD Youth Forum Annual Report 2015	
<b>Report of the Divisional Director Education, Youth and Childcare</b>	
<b>Open Report</b>	<b>For Information</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
<b>Report Author:</b> Sally Allen-Clarke, Senior Youth Worker, Integrated Youth Services	<b>Contact Details:</b> Tel: 020 8227 3297 E-mail: sally.allen-clarke@lbbd.gov.uk
<b>Accountable Divisional Director:</b> Jane Hargreaves, Divisional Director Education, Youth and Childcare	
<b>Accountable Director:</b> Dr Helen Jenner, Director of Children's Services	
<p><b>Summary</b></p> <p>This report to Councillors highlights the achievements of the Barking and Dagenham (BAD) Youth Forum 2015. The report gives information about each of the sub-groups of the forum and for the first time includes information about the work of the Young Mayor, who was elected for the first time in 2015.</p> <p>Each year the BAD Youth Forum holds democratic elections in schools and offers the opportunity to nominate and elect youth representatives. Through the election process, 60 young people are elected to the forum annually. The young people bring a range of experiences and knowledge with them and work together in smaller sub-groups to achieve a common aim. The sole focus of the forum is to support young people to express their views and affect positive change for all young people working, living or studying in the borough. Young people, through the forum, are regularly able to express their views, share these with the appropriate people and aim to influence the decisions made on their behalf that affect their lives, as well as take direct community action.</p> <p>Each year the forum splits itself into three sub-groups, each focussing on different areas. In 2015 these were; anti-bullying, healthy lifestyles and Young Inspectors (Young Inspectors is a project that runs each year as part of the forum's work). Each of the sub-groups successfully planned projects they believed would have an impact on other young people. An anti-bullying sub-group was formed after discussions regarding young people's wellbeing and the negative impact bullying can have on young people physically, emotionally and mentally. A healthy lifestyles project was commissioned by Public Health with a focus on the rising levels of obesity. Young people worked hard to research the issue and develop a workshop they could take to youth groups that would educate young people about exercise and healthy eating. The Young Inspectors sub-group focussed largely on inspecting pharmacies in order to ensure quality condom distribution services are available for young people but also partnered with Trading Standards to carry out test purchases of age related products e.g. cigarettes, alcohol and knives.</p>	

<p>The Young Mayor has worked hard this year to establish herself in her role as the first ever Young Mayor of Barking and Dagenham. The Young Mayor, Angelica Olawepo, has attended many events and has also raised money for her chosen charity, Young Minds.</p>
<p><b>Recommendation(s)</b></p> <p>The Assembly is asked to note the Barking and Dagenham Youth Forum Annual Report for 2015, and recognising the financial pressures that the council is under, provide support for its work.</p>
<p><b>Reason(s)</b></p> <p>To receive the BAD Youth Forum Annual report in accordance with the Council Constitution.</p>

## 1. Introduction and Background

- 1.1 In January 2015 democratic elections were held in every secondary school (not including Trinity School as they have an alternative system for nominating representatives). From these elections 65 young people were elected to join the forum.
- 1.2 At the start of the forum year, young people participated in a team building day and two induction sessions to help them to understand their role more fully and grow in confidence being in a new group. At these meetings many issues were raised e.g. crime, bullying, transport, education and many more. Following these induction meetings young people elected a forum Chair, Deputy Chair and the new Young Mayor.
- 1.3 Discussions in the Monday sub-group highlighted that the majority of the group felt that they had suffered some form of bullying in their lifetime and all members knew someone who had been bullied. The young people felt that schools vary in their approach and effectiveness in dealing with bullying and that young people themselves do not always possess the necessary skills to deal confidently with bullies and protect themselves. In addition, the nature of bullying was changing fast with the introduction of new technologies. As a result the group decided their focus for the year would be about tackling bullying and educating other young people about the issue.
- 1.4 The Tuesday sub-group were commissioned by Public Health to develop a project to address the rising levels of obesity among young people in the borough. The young people thought hard about how to create something interesting that other young people would be willing to participate in. The group decided to create a workshop that would involve physical activity (to raise awareness of how fun and beneficial exercise can be), educate young people about healthy eating and raise awareness of the local Streetbase reward scheme that can be used to collect points and pay for a free swim.
- 1.5 The Young Inspectors sub-group focussed largely on pharmacy mystery shopping

inspections, due to the success of inspections in 2014 and continued drive to bring down teenage pregnancy rates. The inspectors were trained by returning experienced Young Inspectors. Following their training, young people carried out a series of inspections of pharmacies that offer the Come Correct condom distribution scheme locally and various other sites such as leisure centres and Subwize, Alcohol and Substance misuse support service.

- 1.6 Young people participated in three full forum meetings that brought the whole forum together. These meetings enabled young people to learn about local and national democracy, with the third meeting being held at the Houses of Parliament, hosted by Jon Cruddas, MP.
- 1.7 The Young Mayor scheme was new to Barking and Dagenham this year, following its announcement at the Youth Parade in 2014. Our first newly elected Young Mayor, Angelica Olawepo, has attended several events throughout the year and represented young people and their views at each of these events. The Young Mayor has also raised £800 for her chosen charity, Young Minds.

## **2. Proposal and Issues**

### **Sub-groups work outline**

#### **2.1 Anti-bullying project**

- 2.1.1 Having identified that bullying remains an issue for young people by speaking about their own experiences, the group spoke to peers and other young people of a similar age. The young people discovered that bullying is having a large impact on young people's lives.
- 2.1.2 Young people researched the issue of bullying and discovered that the increased use of the internet, chatrooms and instant messaging has added a new dimension to bullying. Cyber bullying has become a large problem as a result of young people being able to easily access the internet and use free messaging services such as Instagram and Whatsapp. As a result of this increased access, it is possible for young people to be bullied or harassed 24 hours a day, 7 days a week sometimes in a very public and humiliating way.
- 2.1.3 Young people decided to participate in a full day of training from Kidscape, the anti-bullying charity. The young people were trained as Anti-bullying Ambassadors. Through this training young people gained a great deal of knowledge about the extent of the problem nationally as well as a wealth of skills they could use to train other young people to become anti-bullying ambassadors.
- 2.1.4 Following this training, young people created their own shorter version of the training which they then offered to deliver in schools directly to young people. Four schools have participated in this training; Jo Richardson, Eastbrook, Warren and Riverside. The forum has received extremely positive responses from both young people and their teachers. A total of 70 young people participated in the workshops across the four schools.
- 2.1.5 In addition to their anti-bullying project the young people decided they would also like to participate in a social action event to help people in their local community.

After careful consideration young people opted to work with a local shelter which offers free hot meals for people on a Friday and an opportunity to interact with others and gain some support. The young people fundraised before the event and purchased toiletries to take on the day to hand out to residents. The group collected over £80. One the day of the event young people worked hard serving meals, chatting to residents and then cleaned up after everyone had left.

## **2.2 Healthy Lifestyle sub-group**

- 2.2.1 With levels of obesity among young people high in the borough, Public Health approached young people asking them to create a project to highlight the benefits of healthy lifestyles, looking in particular at healthy eating. The group discussed the most effective way to get this message out to young people. After much deliberation the group decided to create a workshop for young people that would include healthy eating and physical exercise.
- 2.2.2 Young people approached youth workers within Integrated Youth Service (IYS) and asked to work with them over the summer to present their workshops. Young people then focussed on the content of the workshop. Healthy menus of food to be provided at the workshops were created following a cooking session with an IYS Health Youth Worker.
- 2.2.3 The group met with Phil Oldershaw from the Streetbase team and discussed the benefits of the scheme. This formed part of the workshop later delivered to young people, to encourage them to make healthy meal choices in school. The group also chose some physical activities for the participants to get involved in.
- 2.2.4 The workshops were delivered over the summer holidays across all of Integrated Youth Services' Summer programme i.e. Marks Gate Community Centre, the Vibe Youth Centre, Gascoigne Youth Centre and Sue Bramley Youth Centre. More than 80 young people participated in the workshops, all young people evaluated that they enjoyed the sessions and more than 50% said they would now participate in more exercise and think twice about the content of the food they eat.
- 2.2.5 In order to support the project financially the two volunteers on the programme applied for an O2 Think Big grant of £300 and were successful. The process helped them to gain skills in writing a funding application and explaining their project when interviewed over the telephone. The money was used to pay for resources for the project which included instructors for physical activities and a pedometer to give to young people who participated in the workshop.

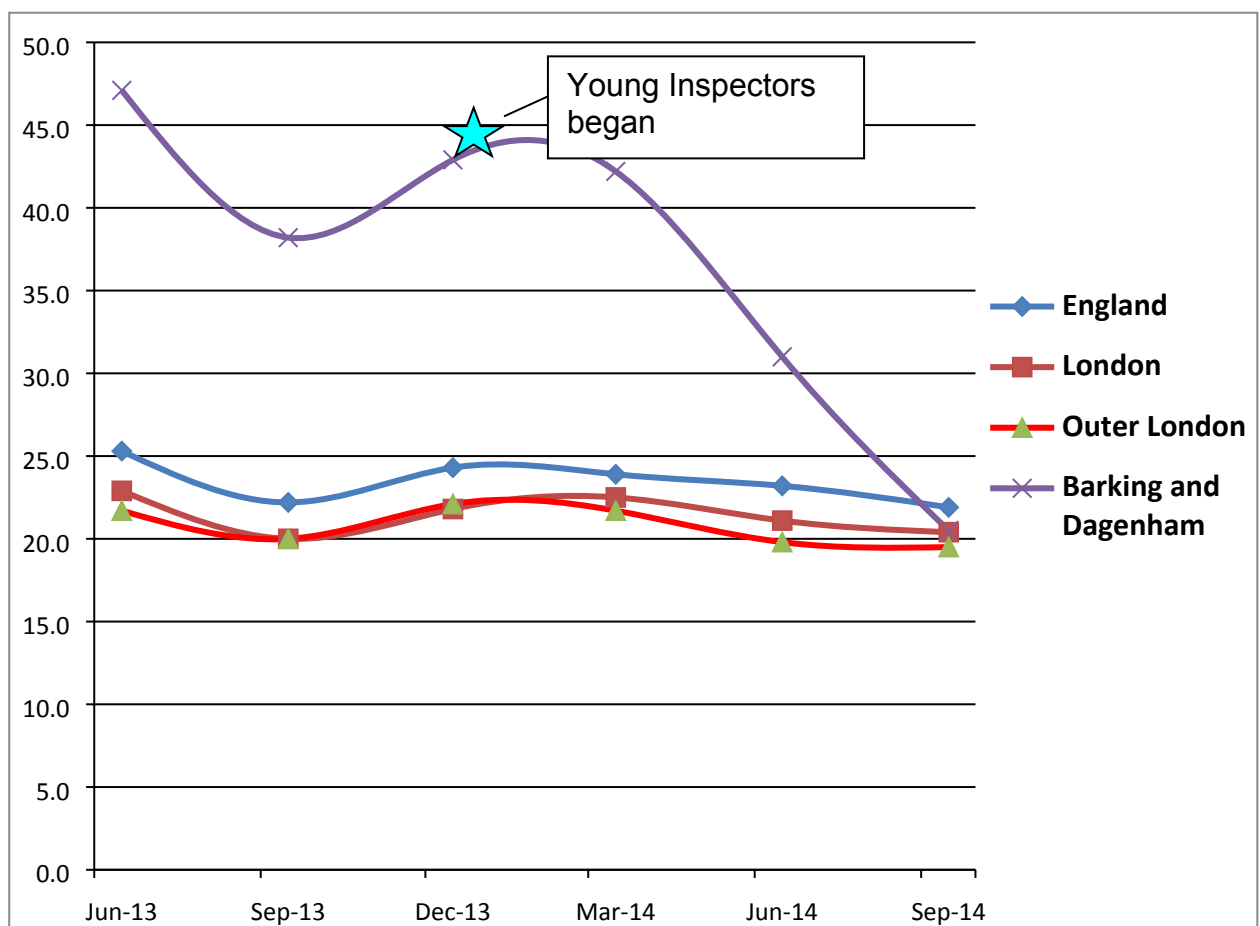
## **2.3 Young Inspectors**

- 2.3.1 At the start of the year 20 new Young Inspectors participated in intensive training to learn to become a Young Inspector, this was delivered by youth workers and experienced Young Inspectors. The young people learnt how to carry out inspections of pharmacies and inspections of all other types of services, where each type of inspection has a different type of report to complete.
- 2.3.2 During the course of 2015 the Young Inspectors carried out 58 pharmacy inspections. 11 other inspections of services also took place, such as borough run leisure centres Abbey and Becontree in order to support the work of the Healthy

Lifestyles sub-group, with the inspections focussing on how easily young people can access physical activities in the borough or get support if they are struggling with their weight, Subwise substance misuse service for young people and the physical activity team.

2.3.3 There appears to be a strong correlation between the introduction of the Young Inspectors programme and employment of the Health Youth Workers and a decline in Teenage Pregnancy (TP) rates in the borough. Most recent data (published 24/11/15 for Jul-Oct 2014) demonstrates that the TP rate for Barking and Dagenham has dropped for the 4<sup>th</sup> quarter in a row and is now at it's lowest level for at least four years, at 20.5 per 1000 under 18s. The first quarter of this decline coincides directly with the quarter when Young Inspectors began their work inspecting pharmacies in January 2014. This is a drop of 33% on the previous quarter, and 46% on the same quarter in 2013. The figure of 20.5 is also at London Average, with London as a whole actually having seen an increase on the same quarter in 2013 of 2%. LBBBD rolling annual TP rate has fallen to 33.8 from 38.3. This rate of decline of 11.7% is well above London and England performance, which has remained static.

**Figure 1. Graph showing the quarterly teenage pregnancy rates in Barking and Dagenham and the commencement of the Young Inspectors programme**



## 2.4 Young Mayor

2.4.1 The first ever Young Mayor was elected in February 2015, after the Leader of the Council and Mayor Kangethe formally announced there would be a Young Mayor at the Youth Parade in 2014. Six young people stood for election, each young person delivered a speech encouraging the wider forum to vote for them. Angelica Olawepo was democratically elected as Young Mayor.

2.4.2 During the course of the year the Young Mayor attended and/or hosted 15 events, most notably the visit from Her Majesty the Queen, and a number of 50<sup>th</sup> Anniversary borough events. The full list includes:

- Induction with Mayor & Council
- Inaugural Women's Empowerment Awards 2015
- Community clear up event at Marks Gate
- Annual Ceremonial Council - Mayor Making
- 50 Years of Fashion event at Marks Gate
- Celebratory party – Pastor Bright
- Her Majesty's visit to the borough
- Youth Parade
- National Citizen's Service graduation event
- Young Mayor's charity fun day
- National Citizen's Service dragons' den
- Alcohol Awareness Week event at Barking Abbey School
- House of Faith congregation
- Box for Peace event at Barking Mosque
- Mayor's Christmas Party

2.4.3 Angelica chose Young Minds as her charity to fundraise for, after careful consideration and discussions with the Youth Forum and students at her school. Angelica hosted a Young Mayor's Charity Fun Day at Barking Learning Centre and raised £800 for her chosen charity.

## 2.5 Consultations

2.5.1 As in previous years, the BAD Youth Forum participated in a range of one-off consultations in 2015. These include:

- **Catering service regarding healthy choices and cleanliness of the dining areas in some schools:** Young people shared their experiences of eating at school and asked about the quality and value for money. It became clear there is a big difference in the standards between some of the secondary schools in the borough. Young people also contributed ideas to the new name for the catering service the council offers to schools. As a result of the consultation, menus have been adapted in secondary schools.
- **Streetbase consultation about the use of the card and making it more accessible and popular with young people:** Young people met with Phil Oldershaw to learn about the importance of healthy eating and exercise. Phil demonstrated the sugar content in many foods and drinks young people consume. The young people were informed about how to use the Streetbase

cards and the benefits of using the cards, i.e. saving up your points to use them for a free swim or other locally based activities for young people.

- **NEET consultation about what we think the council could do to encourage young people to stay in education, employment or training:** The Council are continually looking to lower NEET rates, with this in mind the Group Manager for Integrated Youth Services met with the Youth Forum to ask their views about what more could be done to encourage young people to stay in EET. This information was fed back to careers advisors and NEET trackers in order to offer more appropriate support to NEET young people, and contribution to the borough's participation plan.
- **Children's Rights Alliance for England (CRAE) - online consultation regarding young people's rights:** Young people were asked a series of questions about their rights. Their responses fed in to a country wide survey which will help to shape the future work of CRAE.
- **Public Health England - consultation about raising awareness of safe sex, in response to a rise in sexually transmitted infections:** The forum were consulted on how best to educate young people, through a leaflet, about how to stay safe when having sex. This leaflet will be distributed around the borough.
- **Police survey:** Our Young Inspectors developed a questionnaire, aimed at young people, to find out how police can best communicate with them. We had over 1000 responses. This is the first time a survey like this has been conducted and the Police were very impressed with the response. The responses will be used to inform the way that police interact with young people and what information they share with young people, with a summary report currently being written.
- **Mental health consultation asking young people for their experiences of accessing mental health and finding out what the barriers are:** This consultation came from a Patient Engagement Forum (PEF) meeting. After attending the meeting a youth representative requested Gemma Hughes (Clinical Commissioning Group) attend a session with our members to talk about young people's issues. The young people fed back to Gemma their positive and negative experiences of accessing mental health services. This information will be used by service providers to improve the current service on offer and to attempt to breakdown some of the barriers that young people face when trying to access mental health services.
- **Healthwatch consulted with 2 sub-groups about making their leaflet more appealing to young people:** A draft has been made to date which young people have added further amendments to. The final document will come back to the newly elected forum in March to give their final approval before going to print. All of the ideas young people suggested have been used throughout the leaflet, making it attractive and appealing to young people.
- **Active.mob:** We met with Active.mob, a social enterprise commissioned to work in the borough by Public Health, to discuss what the issues are in Barking and Dagenham for young people regarding teenage pregnancy to help inform a video project around young people views on teenage pregnancy in the borough.

## 2.6 Children's Services Select Committee

2.6.1 The Chair of the forum has attended all formal and informal meetings arranged by the CSSC. The Chair helped formulate the CSSC's current workplan by asking that anti-bullying work be included, has given his views about education and presented a request to the committee to allow the BAD Youth Forum to present their anti-bullying workshop in order to gain the committee's support and sign off. The Chair has spoken confidently at the meetings and has gained experience and confidence in attending formal meetings and expressing his views.

## 2.7 Other events/meetings the BAD Youth Forum have participated in

- Chair of the forum attended the Growth Commission meeting to talk give a young people's perspective on the positives and areas for development in the borough;
- Regularly attended the Public Transport Liaison Group meeting;
- Patient Engagement Forum meetings arranged by the local Clinical Commissioning Group;
- Two representatives sit on the Chief Officers Group meeting led by the Youth Offending Service looking at out of court disposal orders and whether the right decision has been made;
- Members attended the borough Youth Parade;
- All members participated in a democracy and election session the week of the General Election. Young people were given the opportunity to discuss the major policies political leaders were discussing and attempted to put these policies in order of priority dependent upon a pre-chosen background they were assigned. Young people learnt about the importance of making the right choices based on your needs, and how to be considerate of the wider public's needs when choosing who to vote for. Young people had a mature debate about why different issues such, health, education, immigration and national security are important;
- Held regular meetings between each sub-group and the Leader of the Council;
- Members from across all sub-groups participated in the regeneration project in Marks Gate; painting the subway and litter picking in the area. This project promoted social responsibility and from their participation young people gained a greater appreciation for the need to work together to make improvements in the borough, that not only benefit themselves but other people in the borough as well. The positive atmosphere and integration with other groups ensured young people really enjoyed their time at the event as well as learning from it; and
- Question Time full forum session. On 1<sup>st</sup> July 2015 the whole forum were invited to attend a full forum meeting held in the Town Hall chambers. A series of panel members were invited which included representatives from LBB Education, Police, Transport for London and Health. Young people were able to quiz the panel of policy/ decision makers about issues that affect young people and as a result raised the panels awareness of these issues and what young people would like to see happen to positively change the areas that have a negative impact on young people. The young people asked challenging questions and led thought provoking discussions with panel members.



## 2.8 Forward plan

A detailed workplan for the BAD Youth Forum is devised each year upon election of new representatives. There are a number priorities the forum will consider in 2016. These are:

- Continuing to inspect pharmacies that provide the C-Card with a view to continuing to positively impact on teenage pregnancy figures
- Link closely with the condom distribution scheme co-ordinator within Integrated Youth Services to ensure the process of feeding back to pharmacies the strengths of their service as well as what young people feel needs to improve
- Further incorporate the Young Mayor scheme in to the work of the forum, enabling the newly elected Young Mayor to benefit from the skills, support and knowledge of the forum
- Continue to uphold the boroughs priorities of encouraging civic pride, enabling social responsibility and growing the borough.
- The Forum will ensure that Riverside school is fully integrated into the forum, and will work towards involving ELUTEC, Goresbrook School and Riverside Bridge.
- Sub-group priorities for 2016 will be decided in February once the new Forum is elected.

## 3. Other Issues

- 3.1 **Corporate Policy and Customer Impact** – The work of the Barking and Dagenham Youth Forum contributes directly to two of the Council's three overarching priorities, enabling social responsibility and encouraging civic pride. This year, the Forum have undertaken a number of social action projects, ranging from anti-bullying workshops to community clear ups, that all reinforce the principle of taking responsibility for improving your own community. Similarly, the work of the Forum overall is concerned with young people volunteering their time to make improvements to services for the community. The Forum's work also contributes to specific areas within the Joint Strategic Needs Assessment, Children and Young People's Plan, and 14-19 Participation Plan. Customer impact has been most visibly demonstrated in the borough's teenage pregnancy figures which shows the contribution that the young inspectors programme is making to improving access to sexual health services for young people.
- 3.2 **Safeguarding Children** – This year, the BAD Youth Forum have chosen anti-bullying as one of their themes. With the advent of new technologies, preventing and tackling bullying is becoming increasingly complex, with a wide range of partners able to play a role in prevention. By educating young people directly about the signs of bullying and the first steps you can take to stop it, particularly at those younger students in school, the Forum is seeking to empower young people and provide peer led resistance and resilience to bullying in all it's forms. It is important therefore that this workshop is seen by all of the borough's schools, rather than the 50% that have booked it to date.
- 3.3 **Health Issues** – The healthy lifestyles sub-group, supported by funding from Public Health, developed a fun and interesting workshop that young people were keen to participate in. Rather than trying to recruit new young people to attend a workshop, the workshop was taken to their existing youth groups which ensured we were

meeting them in an environment where they felt safe and able to fully participate. For some young people obesity is an embarrassing subject to talk about, but by having young people delivering the workshop in an environment where they feel most at ease, it removed much of young people's anxiety and they were more inclined to participate.

A significant achievement this year in terms of health outcomes is the significant drop in the borough's teenage pregnancy rates. Whilst the reasons for this are multi-faceted, there is a correlation between the start of the decline in rates and when the Young Inspectors began their programme of inspections in January 2014. The rate of inspections has continued, with over 50 inspections completed in 2015 alone. All inspection findings contribute directly and immediately to the feedback and training that pharmacies receive around the condom distribution scheme, thereby driving up the quality of the service that is delivered.

**Public Background Papers Used in the Preparation of the Report: None**

**List of Appendices: None**

## ASSEMBLY

24 February 2016

<b>Title:</b> Budget Framework 2016/17	
<b>Report of the Cabinet Member for Finance</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> Yes
<b>Report Author:</b> Kathy Freeman, Divisional Director – Finance	<b>Contact Details:</b> Tel: 020 227 3497 E-mail: <a href="mailto:Kathy.freeman@lbbd.gov.uk">Kathy.freeman@lbbd.gov.uk</a>
<b>Accountable Director:</b> Jonathan Bunt, Strategic Director of Finance and Investment	
<p><b>Summary:</b> This report sets out the:</p> <ul style="list-style-type: none"> <li>• Medium Term Financial Strategy (MTFS) for 2016/17 to 2020/21;</li> <li>• Proposed General Fund budget for 2016/17;</li> <li>• Proposed level of Council Tax for 2016/17;</li> <li>• Funding reductions to 2019/20</li> <li>• Financial outlook for 2017/18 onwards;</li> <li>• Draft capital investment programme 2016/17 to 20/21.</li> </ul> <p>The General Fund net budget for 2015/16 is £151.444m and the proposed net budget for 2016/17 is £150.314m. The budget for 2016/17 incorporates changes in government grants, decisions previously approved by Members in the Medium Term Financial Strategy, savings approved by the Cabinet in October and December 2014 and other financial adjustments.</p> <p>Council Tax for 2016/17 is proposed to increase by £41.36 (3.99%) to £1,078.03 from its current level of £1,036.67 for a Band D property. The 3.99% increase is made up of 1.99% increase in Council Tax and an additional 2% charge for the Adult Social Care precept. The 2% precept will be ring-fenced for this purpose.</p> <p>The proposed draft capital programme is £492.072m for 2016/17 to 2020/21, including £312.217m for proposed HRA schemes. Details of the schemes included in the draft capital programme are at Appendix E.</p> <p>The Greater London Authority is proposing to reduce their Council Tax by 6.4% for a Band D property, reducing the charge from £295.00 in 2015/16 to £276.00 in 2016/17. The combined Council Tax bill will therefore be £1,354.03 for 2016/17, compared to £1,331.67 in 2015/16. The final GLA budget will be considered by the London Assembly on 22 February 2016.</p> <p>This report was considered and endorsed by the Cabinet at its meeting on 15 February 2016.</p>	

## **Recommendation(s)**

The Assembly is recommended to:

- (i) Approve a base revenue budget for 2016/17 of £150.314m, as detailed in Appendix A to the report;
- (ii) Approve the adjusted Medium Term Financial Strategy (MTFS) position for 2016/17 to 2020/21 allowing for other known pressures and risks at this time, as detailed in Appendix B to the report;
- (iii) Delegate authority to the Strategic Director of Finance and Investment, in consultation with the Cabinet Member for Finance, to finalise any contribution required from reserves in respect of the 2016/17 budget, pending confirmation of levies and further changes to Government grants prior to 1 April 2016;
- (iv) Approve the Statutory Budget Determination for 2016/17 as set out at Appendix C to the report, which reflects an increase of 1.99% on the amount of Council Tax levied by the Council, plus a further 2% increase in relation to the Social Care Precept and the final Council Tax proposed by the Greater London Assembly (6.4%% reduction), as detailed in Appendix D to the report;
- (v) Approve the Council's draft Capital Programme for 2016/17 to 2020/21 as detailed in Appendix E to the report; and
- (vi) Approve the transfer of the one off collection fund surplus of £3.5m to the corporate redundancy reserve, as set out in section 2.11 of the report.

## **Reason(s)**

The setting of a robust and balanced budget for 2016/17 will enable the Council to provide and deliver services within its overall corporate and financial planning framework. The Medium Term Financial Strategy underpins the delivery of the Council's vision of One borough; one community; London's growth opportunity and delivery of the priorities within available resources.

## **1.0 Introduction and Background**

- 1.1 The purpose of this report is to seek agreement to the revenue budget for 2016/17 of £150,314m (£151.444m in 2015/16).
- 1.2 The report also sets out the Medium Term Financial Strategy (MTFS) for 2016/17 to 2020/21 and the Council Tax level for 2016/17.
- 1.3 As part of the budget setting process consideration has been given to the priorities set out in the existing Corporate Delivery Plan and how best these can be achieved with the resources available.

The vision is 'One borough; one community; London's growth opportunity'.

The three corporate priorities that support the vision are:

1. Encourage Civic Pride;
2. Enabling social responsibility;
3. Growing the borough.

## **2.0 Medium Term Financial Strategy (MTFS)**

- 2.1 In February 2015, Assembly approved the budget for 2016/17 which included a £2.152m contribution from reserves as a one off measure with the deficit being rolled forward to 2017/18.
- 2.2 The 2016/17 budget incorporates savings of £12.855m as agreed by Cabinet in December 2014.
- 2.3 Following Assembly in February 2015, a number of amendments were made to the MTFS, including changes in funding assumptions and additional pressures being identified. A budget update report was presented to Cabinet in July 2015 which increased the estimated budget gap to £5.7m.
- 2.4 Provisional funding allocations for 2016/17 were announced in the Local Government Finance Settlement by DCLG (Department for Communities and Local Government) on 17 December 2015. DCLG confirmed the final Local Settlement figures on the 8 February 2016. There were no changes between the provisional settlement and the final settlement for the Council.
- 2.5 For the first time in many years, DCLG announced a provisional four year settlement, giving councils the ability to plan with greater certainty for the future. DCLG will be requesting for Councils to formally accept the four year offer. Details of how to formally accept the offer are yet to be announced.
- 2.6 In previous years, reductions to local government funding have been calculated based on reductions of the revenue support and other central government grants. On this basis, the Medium Term Financial Strategy incorporated significant funding reductions of £36.8m to Revenue Support Grant (RSG) and top up grant. Following the provisional settlement, the funding reductions were £28.5m, £8.3m lower than previously forecast. In calculating the 2016/17 to 2019/20 settlement, the DCLG considered the relative ability of each council to generate income, through Council Tax and business rates retention and calculated the RSG on the overall funding for each council. Due to the Council having a relatively low Council Tax base and collecting less business rates than our level of need, our funding cut was lower in comparative terms compared to councils with a high Council Tax and higher ability to raise revenue from business rates.
- 2.7 Despite the change in DCLG's approach in calculating the funding reduction, it is nonetheless a substantial cut and the financial challenge faced by the Council over the next five years is still £63m.

**Table 1 - Changes to funding in 2015/16 compared to provisional 2016/17 Settlement**

Funding Source	Final 2015/16 £000	Provisional 2016/17 £000	Variance £000
Revenue Support Grant	45,429	36,690	-8,739
Top up grant	35,003	35,290	287
Education Services Grant	3,300	3,440	140
New Homes Bonus Grant	2,871	6,055	3,184
LCTS Administration Grant	346	346	0
HB Administration Grant	1,349	1,254	-95
<b>Change in Government Funding</b>	<b>88,298</b>	<b>83,075</b>	<b>-5,223</b>
Council Tax Precept	44,188	49,314	5,126
Retained NNDR Income	15,521	17,006	1,485
NNDR Compensation Grants	1,419	1419	0
NNDR Pooling Gains	300	0	-300
Council Tax Surplus	1,404	0	-1,404
Business Rates Surplus	314	-500	-814
<b>Change in Local Funding</b>	<b>63,146</b>	<b>67,239</b>	<b>4,093</b>
<b>Total Change in Funding</b>	<b>151,444</b>	<b>150,314</b>	<b>-1,130</b>

- 2.8 The reduction to the Council's core funding of Revenue Support Grant and Top up is over £8.4m. There was also a reduction in the Housing Benefit administration grant of £0.095m. The reductions were partially offset by increases in the New Homes Bonus which had increased due to an accelerated build of new homes in the borough and there being no London Enterprise Panel top-slice for 2016/17. Previous estimates had also been prudent due to government announcement casting doubt over the future of New Homes Bonus. The impact of these changes meant reductions in central government funding of £5.2m.
- 2.9 Due to a number of changes in the Council's local funding, the reduction in central funding was largely offset by growth in the Council Tax base in excess of £5m. The growth in the Council Tax base is made up of a large number of properties being built in the borough, as well as less support being provided to those previously in receipt of the Council Support Scheme. The position in earlier iterations of the MTFS was more cautious on the Council Tax base due to the impact of announced changes to tax credits.
- 2.10 The income retained through business rates has also increased in 2016/17. This is not due to business growth but is in relation to adjustments made to the appeals provision as claims are settled with the Valuation Office.
- 2.11 The estimated Council Tax and NNDR surplus accumulated from prior years is £3.5m, due to an increase of the number of properties in the borough, and a reduction of support provided through the Council Tax support scheme. It is important to note that the surplus is a cash surplus and would only benefit the Council for one year. Due to the Council having set a balanced budget for 2016/17,

it is recommended that the one-off Council Tax and NNDR surplus is transferred to the corporate redundancy reserve to mitigate the cost of severance and pension strain costs of early retirement costs. This is recommended as the Council has announced a voluntary redundancy scheme for staff as it seeks to make early savings towards the budget gap in the MTFS ahead of the Ambition 2020 programme.

- 2.12 In 2015/16 the Council received £1.419m in NNDR compensation grants for a number of reliefs the Government introduced since 2013/14 onwards. The relief also compensated Councils for the 2% inflation cap imposed by DCLG as rates were previously estimated to be uplifted in line with RPI (Retail price index inflation). No confirmation has been received regarding the NNDR compensation grant.
- 2.13 The above changes in funding have been incorporated in the Medium Term Financial Strategy, which is attached as Appendix B of this report. It is proposed that central provision of £1.27m is created to offset against any unannounced funding changes and changes in levies.
- 2.14 For the first time in many years, the Government have responded to the request of local authorities to provide certainty to enable better medium term financial planning. The Government will be requesting local authorities to accept the “four year offer”, with the view that councils who do not accept the offer will be given a one year settlement for 2016/17.
- 2.15 The table below captures the provisional 4 year settlement over the parliamentary period to 2019/20. In 2017/18, the New Homes Bonus starts to reduce as funds are re-directed towards the Improved Better Care Fund. Further details are yet to be announced in regards to how the Better Care Fund will operate, as the current Better Care Fund is pooled between Health and the Council, though there have been ministerial announcements that it is explicitly local government money. For this reason, the Better Care Fund has not been brought into the MTFS funding adjustments.

**Table 2- Provisional Settlement 2016/17 to 2019/2. Estimated figures for 2020/21**

Funding Source	2016/17 £000	2017/18 £000	2018/19 £000	2019/20 £000	2020/21 £000
Revenue Support Grant	36,690	28,760	23,290	17,730	13,728
Top Up Grant	35,290	35,990	37,050	38,230	38,230
Education Services Grant	3,440	2,000	1,000	0	0
New Homes Bonus Grant	5,937	5,937	3,800	3,700	3,430
HB Administration Grant	1,254	1,154	1,054	1,000	950
LCTS Administration Grant	346	346	346	346	346
NHB Returned Funding	118	118	0	0	0
<b>Government Funding</b>	<b>83,075</b>	<b>74,305</b>	<b>66,540</b>	<b>61,006</b>	<b>56,684</b>

### **3.0 General Fund Revenue Budget 2016/17**

- 3.1 The proposed budget for 2016/17 was initially approved by Assembly in February 2015 which incorporated savings agreed by Cabinet in December 2014 of £12.855m. This was then adjusted for items detailed in the approved MTFS and other adjustments made in accordance with financial regulations during 2015/16.
- 3.2 The Council Tax increase of 1.99% approved for the 2015/16 budget was the first increase to Council Tax in seven years. Withholding increases to Council Tax for such a long period of time has significantly reduced the overall income available for the Council. Although the Council did receive financial support through the Council Tax Freeze Grant, some of these grants were one off whilst the ongoing ones were rolled into the Revenue Support Grant and were subsequently reduced as RSG was cut. The Strategic Director of Finance and Investments has advised that Council Tax levels should increase to ensure that the Council's overall tax base is not eroded and proposes an increase of 1.99%.
- 3.3 In recognition of the pressures experienced by Adult Social Care nationally, DCLG have allowed councils nationally to introduce a 2% precept on their Council Tax to offset against the cost of Adult Social Care. The pressures of Adult Social Care are estimated in excess of £4m in 2016/17, so it is proposed that the Council increases Council Tax by a further 2% which will be ring-fenced to mitigate the pressures experienced by Adult Social Care.
- 3.4 Following adjustments to items set out in the MTFS and the pre-agreed savings, proposed Directorate budgets are provided in Appendix A and the Statutory Budget Determination for 2015/16 is set out in Appendix C of this report.
- 3.5 The proposed net budget requirement for 2016/17 is £150.314m and the details of how this is funded are set out in Table 1 of this report.
- 3.6 Details of the levies (Environment Agency, East London Waste Authority, Lee Valley Park, London Pension Fund Authority) the Council is required to pay in 2016/17 are yet to be confirmed. The budget includes an increased provision for the cost of levies of £0.626m in respect of the ELWA levy.
- 3.7 It is proposed that authority is delegated to the Strategic Director of Finance and Investments in consultation with the Cabinet Member for Finance to make the necessary adjustments using the funding provision or from reserves following confirmation of levy and final funding announcements.

### **4.0 Council Tax Requirement**

- 4.1 As outlined in section 3 above, the Council proposes to increase Council Tax by 1.99% + 2% (£41.36) from £1,036.67 to £1,078.03 for a band D property.
- 4.2 The Greater London Authority has provisionally proposed a 6.4% reduction in its charge for 2016/17. The Council Tax charge would be reduced from the 2014/15 amount of £295.00 to £276.00 (Band D property).
- 4.3 The calculation of the proposed Council Tax for 2016/17 is shown in Appendix D.



4.4 Under the Local Government Finance Act 1992, Council Tax must be set before 11 March of the preceding year.

## 5.0 Financial Outlook

5.1 The Chancellor's Autumn Statement published on 25 November 2015 estimated the economy was expected to grow faster than forecasted last year in 2016, 2017 and 2018. Projections beyond 2018 remain the same.

**Table 3 - Change in GDP forecasts between SR14 and SR15**

	GDP 2014	GDP 2015	GDP 2016	GDP 2017	GDP 2018	GDP 2019
Autumn SR 15	2.90%	2.40%	2.40%	2.50%	2.40%	2.30%
Autumn SR 14	3.00%	2.40%	2.20%	2.40%	2.30%	2.30%

5.2 Future year's public sector expenditure is set to increase shown in the Resource Departmental Expenditure Limit (RDEL) which funds local authorities. In the Autumn Statement 2014, the forecast spend on the RDEL showed a decline of c£20bn from 2015/16 to 2017/18. The forecasts announced in the latest Autumn Statement shows a steady increase in the RDEL from £338bn to £348bn by 2018/19.

**Table 4 – Change in Resource Departmental Expenditure Limit (RDEL) projected in the autumn statement**

	2015/16 £bn	2016/17 £bn	2017/18 £bn	2018/19 £bn
RDEL SR15	338	343.7	345.8	348.6
RDEL SR14	339.1	321.8	310.6	n/a

5.3 Although there is not a direct relationship between RDEL and local government funding the RDEL is an indication of the expenditure levels of expenditure. The increase in the RDEL is not reflective of the increased funding to be made available to councils, but will reflect the additional income councils will generate through local funding such as Council Tax and business rates.

5.4 The increase in RDEL could also reflect the Government's plans to allow councils to retain 100% of business rates income. The Government plans to consult on their proposals on business rates over next few months.

## 6.0 Capital Programme

6.1 The Council is required to review its capital spending plans each year and set a capital programme. A key consideration when setting the programme is the projected level of available capital resources and the affordability of the overall programme, including the revenue cost of financing any debt.

6.2 The level of existing internal resources has been reviewed during the year and where relevant capital receipts and other capital reserves will be used to reduce the borrowing requirement of the approved programme in order to reduce debt charges on the Council's revenue budget. Officers will continue to review available capital funding and ensure that the capital programme is financed in the optimum way.

This includes provision for the Strategic Director of Finance & Investment to amend the source of funding for schemes if it is financial advantageous to do so.

### **Current capital programme**

- 6.3 The Council's current capital budget for 2015/16, inclusive of the new Clockhouse Avenue / East Street land Purchase scheme (£3.180m), is £134.691m, and Directorates are currently forecasting to overspend against this by £6.8m. This will be financed by bringing forward and adjusting future year budgets accordingly.
- 6.4 The 2015/16 capital programme will be funded by £48.816 worth of capital grants, £40.730 of HRA/MRR funding, £0.119m of Section 106, £20.628 of capital borrowing, £1.477 of revenue/reserve contributions, and £22.920 of capital receipts.
- 6.5 The budgets for the following five years are draft and will still be subject to change as a result of budget roll-forwards from this year. A summary of these budgets is shown in the table below. The full list of schemes is included at Appendix E.

**Table 7 – Capital programme 2014/15 to 2020/21**

Capital Expenditure	2014/15 Actual £'000	2015/16 Approved £'000	2016/17 Proposed £'000	2017/18 Proposed £'000	2018/19 Proposed £'000	2019/20 Proposed £'000	2020/21 Proposed £'000
General Fund Capital Programme	67,250	53,198	105,769	69,740	2,856	878	612
HRA Capital Programme	78,544	81,493	79,059	56,070	63,128	57,960	56,000
<b>Sub-Total (Operational Capital Programme)</b>	<b>145,794</b>	<b>134,691</b>	<b>184,828</b>	<b>125,810</b>	<b>65,984</b>	<b>58,838</b>	<b>56,612</b>
Finance Lease & PFI Additions	25	54	69	88	96	112	144
Corporate Borrowing yet to be allocated to schemes	-	-	-	6,651	8,788	9,522	9,788
<b>Total</b>	<b>145,819</b>	<b>134,746</b>	<b>184,897</b>	<b>132,550</b>	<b>74,868</b>	<b>68,472</b>	<b>66,544</b>
<b>Financed by:</b>							
Capital Grant	47,723	48,816	63,206	49,906	-	-	-
Section 106	1,187	119	-	-	-	-	-
Revenue & Reserves Contributions	13,161	1,477	875	400	400	400	6,400
Capital Receipts	14,035	22,920	11,741	10,732	15,750	21,500	18,000
HRA / MRR	51,860	40,730	53,507	45,338	47,738	36,460	32,000
<b>Sub-Total</b>	<b>127,966</b>	<b>114,063</b>	<b>133,390</b>	<b>106,376</b>	<b>63,528</b>	<b>58,360</b>	<b>56,400</b>
<b>Net Financing Requirement</b>	<b>17,853</b>	<b>20,683</b>	<b>51,507</b>	<b>26,174</b>	<b>11,340</b>	<b>10,112</b>	<b>10,144</b>

**Table 8 – Cost of In-Year Borrowing**

Minimum Revenue Provision (MRP) (over 20 year life)	893	1034	2,923	1,136	567	506	500
Interest Payable (@3.5%)	625	724	2,046	795	397	354	350
<b>Total</b>	<b>1,518</b>	<b>1,758</b>	<b>4,968</b>	<b>1,932</b>	<b>964</b>	<b>860</b>	<b>850</b>

- 6.6 The two most significant areas of the capital programme are the provision of school places and housing. This reflects the needs of the borough in terms of dealing with a high birth rate and high level of migration into the borough. School expansion schemes are funded by Central Government (the Education Funding Agency), and the HRA programme is self financed by the HRA using a mixture of Government grants, capital receipts and HRA revenue funding. Therefore they do not pose a pressure on the General Fund, in terms of needing to borrow and servicing the cost of borrowing.
- 6.7 Another significant area of the programme is the Corporate Accommodation Strategy. This has a budget of £9.4m over the next two years and will rationalise the corporate office portfolio, which will enable future capital receipts and revenue savings to be realised.
- 6.8 In January, Cabinet agreed a number of new schemes to be funded from corporate borrowing made available of £5m in 2016/17 and £10m in the subsequent years up until 2021, as per the provisions made available in the Council's Medium term Financial Strategy (MTFS). The main intention of this process was to enable the Council to meet its statutory and health and safety requirements. Therefore bids that fulfilled these purposes were prioritised and selected. This process was also primarily aimed at the services/schemes that do not attract external funding, for example to maintain corporate property and IT, roads and the environment.
- 6.9 The details of the new bids going forward at this stage are included in the Budget Strategy report that was presented to Cabinet in January. The £5m made available in 2016/17 has been fully allocated to schemes, but for subsequent years the funding has only been partially allocated, and therefore there will be further schemes put forward to Members to allocate the remaining funding. The new approved schemes as well as the corporate funding remaining to be allocated are included in the table above.
- 6.10 The Council also has a schedule of corporate sites and properties for sale (as presented to Cabinet in January 2015). This will generate additional capital receipts, which could be added to the corporate borrowing available for future years, and therefore will increase the remaining funding that directorates have to bid for. As part of this, the capital investment requirements of the Ambition 2020 programme will have to be considered. Once future bidding processes occur and new bids are put forward they will be presented for approval to Cabinet and added to the capital programme accordingly.
- 6.11 Other schemes that have external funding (e.g. government grants) can be added to the capital programme during the year and will appraised internally as and when such funding is allocated / received.
- 6.12 A draft capital programme for the following five years is presented for approval as amendments will be required after 1 April 2016 when further information becomes available.

## **Capital appraisal and monitoring arrangements**

- 6.13 The Council has in place a capital appraisal process for new capital schemes. The appraisal process includes an analysis of the strategic fit of the scheme, options appraisal and key risks, financial implications, a detailed risk register, health and safety issues, and deliverability and key milestone issues. Only once a scheme successfully meets all these criteria can works commence.
- 6.14 The Council also has a capital monitoring system, which is primarily designed to ensure that projects are delivered within the timescales and within the budget approved by Cabinet. The capital programme is supported by the Capital Delivery Team and is monitored by Project Managers in consultation with the Finance Service.
- 6.15 An upgrade to the financial system ('Oracle R12') was implemented during 2014/15 and following this the Oracle Planning & Budgeting Cloud Service (PBCS) tool has been added this year. This has enabled improvements in the way officers are able to manage and report on capital projects. Project Managers are able to view the live financial performance of their schemes on their personalised 'dashboards', upload their forecasts directly into the system, and now automatically pass these forecasts along their approval hierarchy for approval. This has streamlined and made transparent the approval process within budget monitoring.

## **7.0 Consultation**

- 7.1 A consultation on the 2015/16 and 2016/17 savings was carried out in the autumn of 2014. Details of the consultation are included in paragraph 5 of the Budget Strategy 2015/16 report that was presented to Cabinet on 16 December 2014. Local business rate payers have also been consulted as required by regulations and the final 2016/17 budget was considered by the Public Accounts and Audit Select Committee (PAASC) on 3 February 2016.
- 7.2 This report was considered and endorsed by the Cabinet at its meeting on 15 February 2016.

## **8.0 Financial Implication**

- 8.1 Financial Implications have been covered throughout the report.

## **9.0 Legal Implications**

Implications completed by Dr Paul Feild, Corporate Governance Lawyer

- 9.1 A local authority is required under the Local Government Finance Act 1992 to produce a 'balanced budget'. The current budget setting takes place in the context of significant and widely known reductions in public funding to local authorities. Where there are reductions or changes in service provision as a result of changes in the financial position the local authority is free to vary its policy and consequent service provision but at the same time must have regard to public law considerations in making any decision lawfully as any decision eventually taken is also subject to judicial review. Members would also wish in any event to ensure adherence as part of good governance. Specific legal advice may be required on

the detailed implementation of agreed savings options. Relevant legal considerations are identified below:

- 9.2 Whenever there are proposals for the closure or discontinuance of a service or services, there will be a need for appropriate consultation, so for example if savings proposals will affect staffing then it will require consultation with Unions and staff. In addition to that Members will need to be satisfied that Equality Impact Assessments have been carried out before the proposals are decided by Cabinet.
- 9.3 If at any point resort to constricting expenditure is required, it is important that due regard is given to statutory duties and responsibilities. In particular the Council must have regard to:
- any existing contractual obligations covering current service provision. Such contractual obligations where they exist must be fulfilled or varied with agreement of current providers;
  - any legitimate expectations that persons already receiving a service (due to be cut) may have to either continue to receive the service or to be consulted directly before the service is withdrawn;
  - any rights which statute may have conferred on individuals and as a result of which the council may be bound to continue its provision. This could be where an assessment has been carried out for example for special educational needs statement of special educational needs in the education context);
  - the impact on different groups affected by any changes to service provision as informed by relevant equality impact assessments;
  - to any responses from stakeholders to consultation undertaken.
- 9.4 In relation to the impact on different groups, it should be noted that the Equality Act 2010 provides that a public authority must in the exercise of its functions have due regard to the need to eliminate discrimination and to advance equality of opportunity between persons who do and those who do not share a relevant 'protected characteristic'. This means an assessment needs to be carried out of the impact and a decision taken in the light of such information.

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

- Local Government Finance Settlement 2016/17
- Autumn Statement 2015

### **List of appendices**

**Appendix A** – Revenue Budget 2016/17

**Appendix B** – MTFS 2016/17 to 2020/21

**Appendix C** – The Statutory Budget Determination

**Appendix D** – Calculation of the Council Tax Requirement

**Appendix E** – Draft Capital Programme 2016/17 – 2020/21

**2016/17 Details of Directorate Gross and Net Budgets Including Recharges**

Directorate	Gross Expenditure £'000	Support Costs £'000	Depreciation £'000	Recharge Income £'000	Income £'000	Net Budget £'000
Adults & Community Services	84,254	5,495	2,246	(907)	(41,278)	49,810
Chief Executive's Directorate	5,524	496	60	(4,286)	(1,179)	615
Children's Services	80,197	7,179	8,600	(22)	(34,494)	61,460
Customer, Commercial & Service Delivery	58,201	10,312	10,563	(17,285)	(31,384)	30,407
Finance & Investment	159,107	4,165	178	(6,567)	(155,300)	1,583
Growth & Homes	24,992	1,594	1,531	(130)	(26,416)	1,571
General Finance	30,145	-	(23,178)	-	(2,099)	4,868
<b>GENERAL FUND TOTAL</b>	<b>442,420</b>	<b>29,241</b>	<b>-</b>	<b>(29,197)</b>	<b>(292,150)</b>	<b>150,314</b>
Dedicated Schools Grant	238,250	4,485	-	-	(242,735)	-
Housing Revenue Account	87,964	13,138	9,906	(44)	(110,964)	-
<b>ALL FUNDS TOTAL</b>	<b>768,634</b>	<b>46,864</b>	<b>9,906</b>	<b>(29,241)</b>	<b>(645,849)</b>	<b>150,314</b>

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**Medium Term Financial Strategy - Summary Position 2016/17 - 2020/21**

**Appendix B**

	2016/17 £000	2017/18 £000	2018/19 £000	2019/20 £000	2020/21 £000
<b>Prior Year (Surplus) / Deficit</b>	<b>(565)</b>	<b>0</b>	<b>19,801</b>	<b>35,645</b>	<b>49,622</b>
<b>Budget Increases</b>					
Investment in the capital programme	1,000	1,400	900	900	900
Staff pay award and capacity building	2,000	1,000	1,000	1,000	1,000
ELWA levy increase	626	320	440	350	350
Increased contribution to Pension Fund deficit	650	325	325	325	325
Apprenticeship levy	-	675	-	-	-
Non staff inflation	-	2,100	2,100	2,100	2,100
Delaying of interest costs	-	3,000	-	-	-
Children's demand led increase	1,000	1,200	1,300	1,200	1,100
Increased demand for Adult social care	-	400	500	700	800
Implications of the Care Act 2014	1,044	219	45	377	-
Increase in employers' NI contributions	2,000	-	-	-	-
Adults precept 2% Ctax increase	890	919	949	980	1,012
Delayed implementation of Leisure Trust	1,000	(1,000)	-	-	-
Oracle and ICT hosting, LLW	690	-	-	-	-
National minimum wage - corporate contracts	120	-	-	-	-
Potential impact of funding and levy changes	1,269	-	-	-	-
Potential impact of new legislation	-	2,000	2,000	2,000	2,000
Potential impact of demographic pressures	-	981	1,225	1,133	1,760
<b>Total Additional Costs</b>	<b>12,289</b>	<b>13,539</b>	<b>10,784</b>	<b>11,065</b>	<b>11,347</b>
<b>Changes in Income &amp; Funding</b>					
Government Grants	8,452	7,230	4,410	4,380	4,002
Reduction in HB admin grant	96	-	-	-	-
Education Services Grant	(140)	1,440	1,000	1,000	270
New Homes Bonus Grant	(3,184)	-	2,137	100	428
Reversal of Council tax and NNDR surplus	1,718	-	-	-	-
Increase in rates retention income	(1,485)	-	-	-	-
Council Tax and NNDR surplus	-	-	-	-	-
1.99% increase in Council Tax	(890)	(919)	(949)	(980)	(1,012)
2% increase in Council Tax Adult social care precept	(890)	(919)	(949)	(980)	(1,012)
Increase in Council Tax Base	(3,346)	(570)	(589)	(608)	(628)
Income from Business Rates Pooling	300	-	-	-	-
Transfer of industrial sites for residential use	500	-	-	-	-
<b>Total Changes in Income</b>	<b>1,131</b>	<b>6,262</b>	<b>5,060</b>	<b>2,912</b>	<b>2,048</b>
<b>Cumulative Budget Gap</b>	<b>12,855</b>	<b>19,801</b>	<b>35,645</b>	<b>49,622</b>	<b>63,017</b>
<b>Savings</b>					
Savings approved by Cabinet Dec 2014	(12,855)	-	-	-	-
<b>Total Savings</b>	<b>(12,855)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Cumulative Budget Gap Including Savings</b>	<b>0</b>	<b>19,801</b>	<b>35,645</b>	<b>49,622</b>	<b>63,017</b>

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## STATUTORY BUDGET DETERMINATIONS

### SETTING THE AMOUNT OF COUNCIL TAX FOR THE LONDON BOROUGH OF BARKING AND DAGENHAM

1. At its meeting on 19 January 2016 the Council approved the Council Tax Base 2016/17 calculation for the whole Council area as 45,744.57 [Item T in the formula in Section 31B (3) of the Local Government Finance Act 1992, as amended (“the Act”)]

2. The following amounts have been calculated by the Council for the year 2016/17 in accordance with Sections 31 to 36 of the Act:-

(a)	£768,634,220	being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2) of the Act.
(b)	£719,320,201	being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act.
(c)	£49,314,019	being the amount by which the aggregate at 2(a) above exceeds the aggregate at 2(b) above, calculated by the Council, in accordance with Section 31A(4) of the Act, as its Council Tax requirement for the year (i.e. Item R in the formula in Section 31A(4) of the Act).
(d)	£1,078.03	being the amount at 2(c) above (i.e. “Item R”), divided by Item T (shown at 1 above), calculated by the Council, in accordance with Section 31B(1) of the Act as the basic amount of its Council Tax for the year. Refer below for further detail.

#### Valuation Bands

A	B	C	D	E	F	G	H
£718.69	£838.47	£958.25	£1,078.03	£1,317.60	£1,557.16	£1,796.73	£2,156.07

being the amounts given by multiplying the amount at 2(d) above by the number which, in the proportion set out in Section 5(2) of the Act, is applicable to dwellings listed in a particular valuation band divided by the number which in that proportion is applicable to dwellings listed in valuation Band 'D' calculated by the Council, in accordance with Section 36(1) of the Act, as the amounts to be taken into account for the year in respect of categories of dwellings listed in different valuation bands.

3. That it be noted that for the year 2016/17 the Greater London Authority has indicated the following amounts in precepts issued to the Council, in accordance with Section 40 of the Local Government Finance Act 1992 for each of the categories of dwellings shown below:-

Precepting Authority: Greater London Authority

#### Valuation Bands

A	B	C	D	E	F	G	H
£184.00	£214.67	£245.33	£276.00	£337.33	£398.67	£460.00	£552.00

4. That, having calculated the aggregate in each case of the amounts at 2 and 3 above, the Council, in accordance with Section 30(2) of the Local Government Finance Act 1992, hereby sets the following amounts as the amounts of Council Tax for the year 2016/17 for each of the categories of dwellings shown below:-

## Valuation Bands

A	B	C	D	E	F	G	H
£902.69	£1,053.14	£1,203.58	£1,354.03	£1,654.93	£1,955.83	£2,256.73	£2,708.07

## Calculation of the Proposed Council Tax for 2016/17

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£000

<b>Revised 2015/16 Budget</b>		<b>151,444</b>
Roll forward of last year's surplus	(565)	
New MTFS Items	12,289	
Savings Approved by Cabinet - October & December 2014	<u>(12,854)</u>	
Total Adjustments		(1,130)
<b>Base Budget Requirement for 2016/17</b>		<u><b>150,314</b></u>
Funded By:		
Formula & Specific Grant	(90,404)	
Education Services Grant	(3,440)	
New Homes Bonus Grant	(6,055)	
CTS and Benefits Administration Grant	(1,601)	
Reduction in NNDR income due to transfer of sites	<u>500</u>	
Total Funding		(101,000)
<b>Council Tax Requirement</b>		<u><b>49,314</b></u>
Council Tax Base (Equivalent Band D properties)		45,744.57
Council Tax:		
London Borough of Barking & Dagenham		£1,078.03
Greater London Authority		<u>£276.00</u>
<b>Overall Council Tax - Band D equivalent</b>		<u><b>£1,354.03</b></u>

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Five Year Capital Programme (2016/17 - 2020/21)

Appendix E

	2016/17	2017/18	2018/19	2019/20	2020/21	TOTAL	Government Grants	HRA/MRR	Section 106	Borrowing	Revenue / Reserves	Capital Receipts	Total Funding
<b>Adult &amp; Community Services</b>													
Direct Pymt Adaptations	400,000	400,000	400,000	400,000	400,000	2,000,000					2,000,000		2,000,000
Broadway Theatre	350,000					350,000					350,000		350,000
BLC – Replacement Flooring	125,000	125,000				250,000				250,000			250,000
Dagenham Library Foyer	-	57,000				57,000				57,000			57,000
Eastbury Manor House - Access and egress improvements	-	86,000				86,000				86,000			86,000
BLC OSS Space	46,000	-				46,000				46,000			46,000
Access Improvements, Eastbury Manor House	-	35,000				35,000				35,000			35,000
BLC void areas	-	140,000				140,000				140,000			140,000
Swift	500,000	477,000				977,000				977,000			977,000
Improvement Works at Abbey Green and Abbey Ruins	35,000	-				35,000				35,000			35,000
50m Demountable Swimming Pool	1,700,000					1,700,000				1,700,000			1,700,000
3G football pitches in Parsloes Park	500,000					500,000				500,000			500,000
<b>Total For Adult &amp; Community Services</b>	<b>3,656,000</b>	<b>1,320,000</b>	<b>400,000</b>	<b>400,000</b>	<b>400,000</b>	<b>6,176,000</b>	-	-	-	<b>3,826,000</b>	<b>2,350,000</b>	-	<b>6,176,000</b>
<b>Children's Services</b>													
<b>Primary Schools</b>													
Marsh Green Primary 13-15	909,373					909,373	909,373						909,373
Gascoigne Primary	6,966,641	1,000,000				7,966,641	7,966,641						7,966,641
Sydney Russell (Fanshawe) Primary Expansion	2,573,980					2,573,980	2,573,980						2,573,980
Village Infants - additional pupil places	1,000,000	200,000				1,200,000	1,200,000						1,200,000
Marks Gate Junior	100,000					100,000	100,000						100,000
Central Barking Primary		10,000,000				10,000,000	10,000,000						10,000,000
<b>Secondary Schools</b>													
Robert Clack Expansion 13-15	5,500,000	6,000,000				11,500,000	11,500,000						11,500,000
Lymington Fields New School	500,000	16,924,849				17,424,849	17,424,849						17,424,849
Barking Riverside Secondary Free School	30,000,000	6,695,736				36,695,736	36,695,736						36,695,736
Eastbury Secondary	2,000,000	2,737,526				4,737,526	4,737,526						4,737,526
Eastbrook School	750,000	250,000				1,000,000	1,000,000						1,000,000
Dagenham Park	2,000,000	500,000				2,500,000	2,500,000						2,500,000
New Gascoigne Secondary School	-	4,420,000				4,420,000	4,420,000						4,420,000
<b>Children Centres</b>													
Extension of Abbey children's centre nursery	125,000	125,000				250,000	-			250,000			250,000
<b>Other Schemes</b>													
Feasibility & Design Site Set up	500,000	1,177,956				1,677,956	1,677,956						1,677,956
School Expansion SEN Projects	223,520					223,520	223,520						223,520
Additional SEN Provision	500,000					500,000	500,000						500,000
Pupil Intervention Project (PIP)	250,000					250,000	250,000						250,000
SMF 2014/16	1,300,000					1,300,000	1,300,000						1,300,000
SMF 2015-17	3,000,000					3,000,000	3,000,000						3,000,000
Youth Zone	3,000,000					3,000,000	2,000,000	1,000,000					3,000,000
<b>Total For Children's Services</b>	<b>61,198,514</b>	<b>50,031,067</b>				<b>111,229,581</b>	<b>109,979,581</b>		<b>1,000,000</b>	<b>250,000</b>			<b>111,229,581</b>
<b>Environment Services</b>													
Backlog Capital Improvements	200,000					200,000				200,000			200,000
Consolidation & Expansion of CPZ	330,000	300,000				630,000				630,000			630,000
Frizlands Phase 2 Asbestos Replacement	150,000	-				150,000				150,000			150,000
HIP 2016-17 Footways & Carriageways	700,000	-				700,000				700,000			700,000
Expired Lighting Column Replacement	500,000	1,000,000	1,000,000			2,500,000				2,500,000			2,500,000
Bridges & Structures	250,000	400,000				650,000				650,000			650,000
Park Infrastructure	-	52,000				52,000				52,000			52,000
Fixed Play Equipment	30,000	-				30,000				30,000			30,000
Lakes Improvements	-	80,000	40,000	40,000	40,000	200,000				200,000			200,000
Parks Building Demolition Works	20,000	-				20,000				20,000			20,000
Abbey Green Historic Wall Repairs	21,000	-				21,000				21,000			21,000
Old Dagenham Park BMX Track	165,000	-				165,000				165,000			165,000
Capital Improvements	148,000	300,000				448,000				448,000			448,000
Parking ICT System	280,000	-				280,000				280,000			280,000
<b>Total For Environmental Services</b>	<b>2,794,000</b>	<b>2,132,000</b>	<b>1,040,000</b>	<b>40,000</b>	<b>40,000</b>	<b>6,046,000</b>				<b>6,046,000</b>			<b>6,046,000</b>
<b>Chief Executive (CEO)</b>													
<b>Asset Strategy</b>													
Energy Efficiency Programme	128,000					128,000				128,000			128,000
Implement Corporate Accommodation Strategy	5,000,000	4,447,541				9,447,541				9,447,541			9,447,541

<b>ICT</b>													
ICT End User Computing	1,356,000	172,000	172,000	438,000	172,000	2,310,000				2,310,000			2,310,000
<b>Regeneration</b>													
Chadwell Heath CCM (TfL)	748,600					748,600	748,600						748,600
Establishment of Council Owned Energy Services Comp	125,000					125,000			125,000				125,000
Creative Industry ( formerly Barking Bathouse)	300,000					300,000	300,000						300,000
Principal Road Maintenance	446,400					446,400	446,400						446,400
Road Safety Improvements - Environment Scheme	186,000					186,000	186,000						186,000
Barking Station Improvements	900,000					900,000	900,000						900,000
Gale Street Corridor Improvements	325,500					325,500	325,500						325,500
Local Transport Plans	93,000					93,000	93,000						93,000
Borough Cycle Programme	133,000					133,000	133,000						133,000
<b>Total For Chief Executive (CEO)</b>	<b>9,741,500</b>	<b>4,619,541</b>	<b>172,000</b>	<b>438,000</b>	<b>172,000</b>	<b>15,143,041</b>	<b>3,132,500</b>			<b>11,885,541</b>	<b>125,000</b>		<b>15,143,041</b>
<b>General Fund Housing</b>													
Critical Needs Homelessness Assessment and Support	219,000					219,000				219,000			219,000
Gascolgne Estate 1 (EIB)	28,159,662	11,637,837	1,243,500			41,040,999				41,040,999			41,040,999
<b>Total For General Fund Housing (GFH)</b>	<b>28,378,662</b>	<b>11,637,837</b>	<b>1,243,500</b>			<b>41,259,999</b>				<b>41,259,999</b>			<b>41,259,999</b>
<b>Grand Total General Fund</b>	<b>105,768,676</b>	<b>69,740,445</b>	<b>2,855,500</b>	<b>878,000</b>	<b>612,000</b>	<b>179,854,621</b>	<b>113,112,081</b>		<b>1,000,000</b>	<b>63,267,540</b>	<b>2,475,000</b>		<b>179,854,621</b>
<b>HRA</b>													
<b>Investment in Stock</b>													
Aids And Adaptations	860,000	800,000	800,000			2,460,000		2,460,000					2,460,000
Asbestos Removal	650,000	650,000	725,000			2,025,000		2,025,000					2,025,000
Central Heating	1,600,000	1,600,000	1,000,000			4,200,000		4,200,000					4,200,000
Decent Homes Central	8,000,000	5,500,000	8,000,000			21,500,000		21,500,000					21,500,000
Decent Homes (Blocks)	76,000	-	-			76,000		76,000					76,000
Decent Homes (Sheltered)	33,000	-	1,500,000			1,633,000		1,533,000					1,533,000
Decent Homes Support - Liaison Team / Surveys	328,000	328,000	328,000			984,000		984,000					984,000
Conversions	300,000	300,000	300,000			900,000		900,000					900,000
Fire Safety Improvements	15,000	3,000,000	-			3,015,000		3,015,000					3,015,000
Energy Efficiency	500,000	500,000	500,000			1,500,000		1,500,000					1,500,000
Voids	3,000,000	2,500,000	475,000			5,975,000		5,975,000					5,975,000
Roof Replacements	-	-	2,000,000			2,000,000		2,000,000					2,000,000
Window Replacements	-	-	2,000,000			2,000,000		2,000,000					2,000,000
Estate Roads & Environment	800,000	800,000	400,000			2,000,000		2,000,000					2,000,000
Garages	300,000	300,000	50,000			650,000		650,000					650,000
Communal Repairs & Upgrades	1,500,000	1,500,000	1,800,000			4,800,000		4,800,000					4,800,000
External Fabric - Blocks Phase 1	5,973,000	6,000,000	4,000,000			15,973,000		15,973,000					15,973,000
Decent Homes North	7,000,000	7,500,000	8,000,000			22,500,000		22,500,000					22,500,000
Decent Homes South	6,590,000	7,500,000	8,000,000			22,090,000		22,090,000					22,090,000
Fire Safety Works	1,227,000	2,225,000	1,500,000			4,952,000		4,952,000					4,952,000
Street Purchases	1,000,000	-	-			1,000,000		1,000,000					1,000,000
To be allocated	-	-	-	33,060,000	30,000,000	63,060,000		60,460,000		2,600,000			63,060,000
<b>Total</b>	<b>39,753,000</b>	<b>41,003,000</b>	<b>41,378,000</b>	<b>33,060,000</b>	<b>30,000,000</b>	<b>185,194,000</b>		<b>182,593,000</b>		<b>2,600,000</b>			<b>185,193,000</b>
<b>Estate Renewal</b>													
Estate Renewal	4,335,000	4,335,000	6,000,000	6,000,000	6,000,000	26,670,000		26,670,000					26,670,000
<b>Total</b>	<b>4,335,000</b>	<b>4,335,000</b>	<b>6,000,000</b>	<b>6,000,000</b>	<b>6,000,000</b>	<b>26,670,000</b>		<b>26,670,000</b>					<b>26,670,000</b>
<b>New Build schemes</b>													
Leys Phase 1	4,166,000	232,000	-			4,398,000		1,345,570	1,348,078		1,704,352		4,398,000
Leys Phase 2	12,400,000	500,000	-			12,900,000		4,005,057	4,012,522		4,882,421		12,900,000
Marks Gate	339,000	-	-			339,000		109,493	109,697		119,810		339,000
Bungalows	112,000	-	-			112,000		36,175	36,242		39,583		112,000
Ilchester Road	2,988,000	-	-			2,988,000		965,090	966,888		1,056,022		2,988,000
North St	3,055,000	-	-			3,055,000		986,730	988,569		1,079,701		3,055,000
Burford Close	1,100,000	-	-			1,100,000		355,287	355,950		388,763		1,100,000
To Be Allocated	9,061,000	10,000,000	15,750,000	18,900,000	20,000,000	73,711,000		2,926,599	2,932,054	6,000,000	61,852,348		73,711,000
<b>Total</b>	<b>33,221,000</b>	<b>10,732,000</b>	<b>15,750,000</b>	<b>18,900,000</b>	<b>20,000,000</b>	<b>98,603,000</b>		<b>10,730,000</b>	<b>10,750,000</b>	<b>6,000,000</b>	<b>71,123,000</b>		<b>98,603,000</b>
<b>Housing Transformation</b>													
Housing Transformation Programme	1,750,000	-	-	-	-	1,750,000		1,750,000					1,750,000
<b>Total</b>	<b>1,750,000</b>					<b>1,750,000</b>		<b>1,750,000</b>					<b>1,750,000</b>
<b>HRA Total</b>	<b>79,059,000</b>	<b>56,070,000</b>	<b>63,128,000</b>	<b>57,960,000</b>	<b>56,000,000</b>	<b>312,217,000</b>		<b>221,743,000</b>		<b>10,750,000</b>	<b>6,000,000</b>	<b>73,723,000</b>	<b>312,216,000</b>
<b>TOTAL CAPITAL PROGRAMME</b>	<b>184,827,676</b>	<b>125,810,445</b>	<b>65,983,500</b>	<b>58,838,000</b>	<b>56,612,000</b>	<b>492,071,621</b>	<b>113,112,081</b>	<b>221,743,000</b>	<b>1,000,000</b>	<b>74,017,540</b>	<b>8,475,000</b>	<b>73,723,000</b>	<b>492,070,621</b>



**ASSEMBLY****24 February 2016**

<b>Title:</b> Treasury Management Strategy Statement 2016/17	
<b>Report of the Cabinet Member for Finance</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> Yes
<b>Report Author:</b> David Dickinson, Group Manager Pensions and Treasury	<b>Contact Details:</b> Tel: 020 8227 2722 E-mail: <a href="mailto:david.dickinson@lbbd.gov.uk">david.dickinson@lbbd.gov.uk</a>
<b>Accountable Director:</b> Jonathan Bunt, Strategic Director, Finance & Investment	
<b>Summary</b>	
<p>This report deals with the Treasury Management Annual Strategy Statement, Treasury and Prudential Indicators, Annual Investment Strategy and borrowing limits, in compliance with Section 15(1)(a) of the Local Government Act 2003.</p> <p>The production and approval of a Treasury Management Annual Strategy Statement and Annual Investment Strategy are requirements of the Council under Section 15(1) of the Local Government Act 2003. It is also a requirement of the Act to set an authorised borrowing limit for the forthcoming financial year.</p> <p>The Local Government Act 2003 also requires the Council to have regard to the Prudential Code, and to set prudential indicators which take into account the Council's capital investment plans for the next three years.</p> <p>The Cabinet considered and endorsed this report at its meeting on 15 February 2016.</p>	
<b>Recommendation(s)</b>	
<p>The Assembly is recommended to adopt the Treasury Management Strategy Statement for 2016/17 and, in doing so, to:</p> <ul style="list-style-type: none"> <li>(i) Note the current treasury position for 2016/17 and prospects for interest rates, as referred to in section 6 of the report;</li> <li>(ii) Approve the Council's Borrowing Strategy, Debt Rescheduling Strategy and Policy on borrowing in advance of need for 2016/17 as referred to in section 9 of the report;</li> <li>(iii) Approve the Annual Investment Strategy and Creditworthiness Policy for 2016/17 outlining the investments that the Council may use for the prudent management of its investment balances, as set out in Appendix 2 of the report;</li> <li>(iv) Approve the Authorised Borrowing Limit of £800m for 2016/17, representing the statutory limit determined by the Council pursuant to section 3(1) of the Local</li> </ul>	

Government Act 2003, as set out in Appendix 4 of the report;

- (v) Approve the Treasury Management Indicators and Prudential Indicators for 2016/17, as set out in Appendix 4;
- (vi) Approve the Minimum Revenue Policy Statement for 2016/17, representing the Council's policy on repayment of debt, as set out in Appendix 5 of the report;
- (vii) Maintain the authority delegated to the Strategic Director of Finance and Investment, in consultation with the Cabinet Member for Finance, to proportionally amend the counterparty lending limits agreed within the Treasury Management Strategy Statement to take into account the increase in cash from the European Investment Bank but also the subsequent decrease in cash balances as payments are made to the Special Purpose Vehicle; and
- (viii) Next review the delegated responsibility in (vii) above as part of the 2015/16 Treasury Management Outturn Report to the Assembly.

**Reason(s)**

To enable the Council to accord with the requirements of the Local Government Act 2003.

## **1. Introduction and Background**

- 1.1 The Council is required to operate a balanced budget, with cash raised during the year sufficient to meet the Council's cash expenditure. Treasury management supports the Council by seeking to ensure its cash flow is adequately planned, with cash being available when it is needed. Surplus cash is invested in counterparties or instruments commensurate with the Council's risk appetite, providing adequate security and liquidity while also considering the investment return.
- 1.2 A second function of treasury management is funding the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer term cash flow planning to ensure that the Council can meet its capital spending obligations. This management of longer term cash may involve arranging long or short term loans, or using longer term cash flow surpluses.
- 1.3 The Council is responsible for its treasury decisions, activity and risk appetite. The successful identification, monitoring and control of risk are integral elements of treasury management, including credit and counterparty risk, liquidity risk, market risk, interest risk, refinancing risk and legal and regulatory risk. The Council is statutorily required to approve the Treasury Management Strategy Statement (TMSS) prior to the new financial year.

## **2. Reporting Requirements**

- 2.1 The Council is required to receive and approve at least three main treasury reports each year. These reports are required to be adequately scrutinised by Cabinet before being recommended to the Council. The three main treasury reports are:
  - i. **The Treasury Management Strategy Statement (TMSS)** is the most important report and takes into account the impact of the Council's proposed Revenue Budget and Capital Programme on the Balance Sheet position, the current and

projected Treasury position, the Prudential Indicators (PIs) and the outlook for interest rates. In addition the current market conditions are factored into any decision making process.

- ii. **An Annual Treasury Report** which outlines the actual PIs, treasury indicators and treasury operations compared to the estimates within the strategy.
- iii. **A Mid-Year Treasury Management Report** to update Members on the progress of the capital position, amending PIs and investment strategy as necessary.

2.2 As the Council is responsible for housing, PIs relating to capital expenditure, financing costs and the Capital Financing Requirement (CFR) are split between the Housing Revenue Account (HRA) and the General Fund (GF). The impact of new capital investment decisions on housing rents will also need to be considered.

2.3 This report provides an explanation of the key elements of the Council's Treasury Management Strategy, its Minimum Revenue Provision (MRP) Strategy, the Annual Investment Strategy (AIS) for 2016/17 and the borrowing strategy, which are set out in detail in the appendices attached to this report.

### **3. Treasury Management Strategy for 2016/17**

3.1 The Local Government Act 2003 and supporting regulations require the Council to have regard to the CIPFA Prudential Code and the CIPFA Treasury Management Code of Practice to set Prudential and Treasury Indicators for the next three years and ensure the Council's capital programme is affordable, prudent and sustainable.

3.2 The Act requires councils to set out their treasury strategy for borrowing and to prepare an Annual Investment Strategy (as required by investment guidance issued subsequent to the Act). This sets out the Council's policies for managing its investments and for giving priority to the security and liquidity of those investments.

3.3 The Council has adopted the Department of Communities and Local Government (DCLG) investment guidance that came into effect from 1 April 2010. The strategy for 2016/17 covers two main areas:

#### Treasury Management Issues

- Current Portfolio Position;
- Treasury Position at 31 March 2015;
- Medium term capital finance budget;
- Treasury Management Advisors;
- Economic Update and Rate Forecast;
- The Annual Investment Strategy and Investment Policies;
- The Capital Expenditure Plans 2016/17 – 2018/19;
- The Council's Borrowing Strategy and Borrowing Requirement; and
- Treasury indicators which limit the treasury risk and activities of the Council.

#### Capital Issues

- The capital plans and the prudential indicators; and
- The minimum revenue provision (MRP) strategy.

#### 4. Current Portfolio Position

4.1 The Council holds cash balances arising from its operational activities, including income from grants and Council Tax, which are offset by expenditure to run services. The timing of these cash flows can result in surplus cash which is then available to invest. Cash balances are also affected by “working capital”, which relates to amounts of outstanding payments to be made to suppliers offset by amounts owed to the Council.

4.2 The Council’s year-end (31 March) cash balances since 2012/13 are shown below:

2015/16 - £220m (estimate)

2014/15 - £218m

2013/14 - £120m

2012/13 - £110m

4.3 These balances are made up of the following sources of cash:

- Capital grants and Section 106 funds received in advance of expenditure;
- General Fund, Housing Revenue Account and School cash balances;
- Earmarked Reserves and provisions;
- Capital Receipts and Working Capital;
- European Investment Bank Loans to fund regeneration; and
- Public Works Loan Board and bank loans to fund capital expenditure.

4.4 Table 1 below shows the Council’s investments and borrowing balances as at 31 December 2015, including the average life and the Rate of Return. The loans have been split between HRA borrowing and GF borrowing to match the two pool approach the Council has adopted for borrowing. The Council invests all cash in one investment pool, with interest distributed between the HRA, schools and GF.

**Table 1: Council’s Treasury Position at 31 December 2015**

	<b>Principal Outstanding 31/12/2015 £'000s</b>	<b>Average Life as at 31/12/2015 (yrs)</b>	<b>Average Rate of Return 31/12/2015 %</b>
<b>Housing Revenue Borrowing</b>			
Public Works Loan Board	265,912	40.06	3.50
<b>General Fund Borrowing</b>			
Long Term Borrowing	129,000	47.77	2.76
Short Term Borrowing	66,005	0.07	0.44
<b>Total General Fund Debt</b>	<b>195,005</b>	<b>31.62</b>	<b>1.98</b>
<b>Total Borrowing</b>	<b>460,917</b>	<b>36.49</b>	<b>2.86</b>
<b>Investments (In-House)</b>	258,461	0.99	1.27
<b>Net Borrowing</b>	<b>202,456</b>		

#### 4.5 Medium Term Capital Finance Budget

A key part of the Council's budget strategy is the medium term capital finance budget shown as Table 2. It is a statutory requirement that the level of borrowing is kept under review and is affordable.

**Table 2: Medium Term Capital Finance Budget**

<b>£'000s</b>	<b>2015/16 Budget</b>	<b>2016/17 Budget</b>	<b>2017/18 Budget</b>	<b>2018/19 Budget</b>
MRP	7,088	4,738	5,238	5,738
GF Interest Payable	2,251	2,251	5,251	5,251
HRA Interest Payable	9,294	10,059	10,059	10,059
Investment Income	(2,010)	(2,570)	(2,570)	(2,570)
<b>Net Cost</b>	<b>16,623</b>	<b>14,478</b>	<b>17,978</b>	<b>18,478</b>

#### 4.6 Treasury Position at 31 March 2015

The Council's treasury portfolio position at 31 March 2015, with forward projections are summarised in table 3. The table shows the actual external debt against the underlying capital borrowing need (CFR), highlighting any over or under borrowing. The CFR and the Gross Debt includes borrowing to fund the first Barking & Dagenham Reside scheme as well as the borrowing from the EIB to fund Abbey Road Phase 2 and the Gascoigne Regeneration.

**Table 3: Treasury Position at 31 March 2015, with Forward Projections**

<b>£'000s</b>	<b>2014/15 Actual</b>	<b>2015/16 Estimate</b>	<b>2016/17 Estimate</b>	<b>2017/18 Estimate</b>	<b>2018/19 Estimate</b>
<b>External Debt</b>					
Debt at 1 April	315,912	394,912	404,912	404,912	404,912
Expected change in Debt	79,000	10,000	0	0	0
Other long-term liabilities	58,078	55,245	52,308	49,407	47,707
Reside 1 Debt	84,847	84,481	84,100	83,703	83,291
<b>Gross Debt at 31 March</b>	<b>537,837</b>	<b>544,638</b>	<b>541,320</b>	<b>538,022</b>	<b>535,910</b>
<b>CFR</b>	<b>578,098</b>	<b>589,112</b>	<b>631,980</b>	<b>649,350</b>	<b>652,401</b>
<b>Under / (over) borrowing</b>	<b>40,261</b>	<b>44,474</b>	<b>90,660</b>	<b>111,328</b>	<b>116,491</b>

#### 5. Treasury Management Advisors

- 5.1 The Council uses Capita Asset Services (CAS) for external treasury advice. However the Council recognises that it is ultimately responsibility for all treasury management decisions and will ensure that undue reliance is not placed on the external advisors.
- 5.2 The Council recognises that there is value in receiving advice from an external treasury advisor in order to acquire access to specialist skills and resources. The Council will ensure that the terms of their appointment and the methods by which their value will be

assessed are documented, and subjected to regular review. For its cash flow generated balances, the Council will utilise a range of investment instruments, as agreed within the Annual Investment Strategy restrictions (appendix 1) in order to benefit from the compounding of interest.

## **6. Economic Update and Rate Forecast**

6.1 The Bank Rate Forecast to 2019 is provided below. These indicate a slow but steady increase in rates, potentially starting towards the end of 2016 or early 2017.

Q1 2017 0.75%

Q1 2018 1.25%

Q1 2019 1.75%

6.2 Economic forecasting remains difficult with many external influences weighing on the UK. Bank Rate forecasts are liable to further amendment depending on how economic data and developments in financial markets transpire over the next year.

6.3 Forecasts for average earnings beyond the three year time horizon will be heavily dependent on economic and political developments. Major volatility in bond yields is likely to endure as investor fears and confidence ebb and flow between favouring more risky assets i.e. equities, or the safe haven of bonds.

6.4 The overall longer run trend is for gilt yields and PWLB rates to rise, due to the high volume of gilt issuance in the UK, and of bond issuance in other major western countries. An eventual world economic recovery will also see investors switching from the safe haven of bonds to equities.

6.5 The United States Federal Reserve (the Fed) increased rates in December 2015 and is likely to increase more strongly than Bank Rate in the UK. These increases will have a corresponding effect of pushing up US Treasury and UK gilt yields. While there is usually a high degree of correlation between the two yields, it is expected that there will be a decoupling of yields between the two i.e. US yields to go up faster than UK yields.

6.6 The overall balance of risks to the UK's economic recovery is currently to the downside. Only time will tell how long this period of strong economic growth will last; it also remains exposed to vulnerabilities in a number of key areas.

6.7 There is currently an exceptional level of volatility within the bond markets which are highly correlated to emerging market, geo-political and sovereign debt crisis developments.

6.8 Downside risks to current forecasts for UK gilt yields and PWLB rates include:

- Emerging economy currencies and corporates destabilised by falling commodity prices and/or Fed rate increases; Geopolitical risks in Eastern Europe, the Middle East and Asia increasing investments in gilts thereby reducing yields.
- UK economic growth and increases in inflation are weaker than anticipated.
- Weak growth or recession in the UK's main trading partners - the EU and US.
- A resurgence of the Eurozone sovereign debt crisis.
- Recapitalisation of European banks requiring more government support.

- Monetary policy action failing to stimulate sustainable growth and combat the threat of deflation in western economies, especially the Eurozone and Japan.

6.9 The potential for upside risks to current forecasts for UK gilt yields and PWLB rates, especially for longer term PWLB rates include: -

- Uncertainty around the risk of a UK exit from the EU.
- The pace and timing of increases in the Fed rate causing a fundamental reassessment by investors of the relative risks of holding bonds as opposed to equities and leading to a major flight from bonds to equities.
- UK inflation returning to significantly higher levels than in the wider EU and US, causing an increase in the inflation premium inherent to gilt yields.

6.10 A detailed economic update is included as Appendix 1 of this report.

## 7. The Annual Investment Strategy and Investment Policies

7.1 The Council's investment policy has regard to the CLG's Guidance on Local Government Investments ("the Guidance") and the revised CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes ("the CIPFA TM Code").

7.2 These guidelines do not apply to either trust funds or pension funds, which operate under a different regulatory regime. The key intention of the guidance is to maintain the current requirement for councils to invest prudently. The Council's investment priorities are:

- Security** of the investment capital: Minimising the risk of losing cash arising from a bank failure and consequent default (as occurred with Icelandic Banks in 2008).
- Liquidity** of the investment capital: Ensuring the Council will have access to cash as required to meet daily expenditure obligations.
- An optimum yield** which is commensurate with security and liquidity: The return provided will be considered alongside security and yield in order to achieve the target return required to meet the interest budget.

7.3 The Annual Investment Strategy (AIS) is attached Appendix 2 of this report. It is the Council's responsibility to agree an appropriate minimum acceptable credit quality of counterparties for inclusion on the lending list in the AIS in accordance with the above principles. A creditworthiness methodology has been used to create the counterparty list, which takes into account the ratings and watches published by all three ratings agencies with a full understanding of what the ratings reflect in the eyes of each agency. Using the CAS ratings service, banks' ratings are monitored on a real time basis with knowledge of any changes notified electronically as the agencies notify modifications.

### 7.4 Withdrawal of Implied Sovereign Support

7.4.1 The main rating agencies, namely Fitch, Moody's and Standard & Poor's (S&P) have, through much of the financial crisis, provided some institutions with a ratings "uplift" due to implied levels of sovereign support. Commencing in 2015, in

response to the evolving regulatory regime, all three agencies have begun removing these “uplifts” with the timing of the process determined by regulatory progress at the national level. The process has been part of a wider reassessment of methodologies by each of the rating agencies. In addition to the removal of implied support, new methodologies are now taking into account additional factors, such as regulatory capital levels. In some cases, these factors have “netted” each other off, to leave underlying ratings either unchanged or little changed.

- 7.4.2 A consequence of these new methodologies is they have lowered the importance of Fitch’s Support and Viability ratings and have seen Moody’s Financial Strength rating withdrawn by the agency. As a result of this change the rating element of the Council’s credit assessment process now focuses solely on the Short and Long Term ratings of an institution. While this is the same process that has always been used for S&P, this has been a change in the use of Fitch and Moody’s.
- 7.4.3 The evolving regulatory environment, in tandem with the rating agencies’ new methodologies also means that sovereign ratings are now of lesser importance in the assessment process. During the financial crisis the Council assigned the highest sovereign rating (AAA) to its investment criteria. The new regulatory environment is attempting to break the link between sovereign support and domestic financial institutions. While this authority understands the changes that have taken place, it will continue to specify a minimum sovereign rating of AA. This is in relation to the fact that the underlying domestic and where appropriate, international, economic and wider political and social background will still have an influence on the ratings of a financial institution.
- 7.4.4 It is important to stress that these rating agency changes do not reflect changes in the underlying status or credit quality of the institution but merely reflect a reassessment of rating agency methodologies in light of enacted and future expected changes to the regulatory environment in which financial institutions operate. While some banks have received lower credit ratings as a result of these changes, this does not mean that they are suddenly less credit worthy than they were formerly. Rather, in the majority of cases, this mainly reflects the fact that implied sovereign government support has effectively been withdrawn from banks. They are now expected to have sufficiently strong balance sheets to be able to withstand foreseeable adverse financial circumstances without government support. In fact, in many cases, the balance sheets of banks are now much more robust than they were before the 2008 financial crisis when they had higher ratings than now. However, this is not universally applicable, leaving some entities with modestly lower ratings than they had through much of the “support” phase of the financial crisis.

## 7.5 **‘Bail In’ Legislation**

- 7.5.1 As part of regulation changes within the banking sector the UK Government will remove the expectation that governments will support financial institutions in the event of an institution fail. This move is to set aside a structure that will be followed should a financial institution fail. To do this the UK Government has agreed a process to deal with a financial institution failure, which includes the option for institutional investors to lose part of their invested cash as part of a ‘bail in’.



7.5.2 It could be argued that the potential for institutional investors to lose part of their investment has always been there and is the main driver behind the rates 'rewarded' when an investment is made. The structure to be adopted does still keep the equity investor and bond holders at the top with Institutional Investors after these. Therefore there is a significant buffer before the Council's cash holdings would be affected.

7.5.3 One area of concern is the potential for the rating agencies to downgrade the banks the Council currently is invested with due to the loss of the implied government support. This potentially would bring them below the minimum credit rating agreed by the Council in the 2015/16 TMSS. As a result, where the credit rating is taken into account, it is recommended that the minimum credit rating criteria be revised from A / F1 to A- F2. This change is reflected in the Annual Investment Strategy (Appendix 2).

## 7.6 Treasury Savings Targets

7.6.1 Historically the Council has maintained a prudent and low risk treasury investment strategy. This approach has ensured that the Council has not lost money from any of its investments, while achieving a return commensurate with the risk taken. This approach has led to treasury having a significant impact on the Council's overall funding requirements, both in terms of generating income from investments and from reducing the costs of borrowing to support the Council's capital programme.

7.6.2 In order for Treasury to support the significant savings target the Council has for 2016/17 to 2017/18, Members agreed a number of savings targets for treasury as outlined in table 4 below, which shows the accumulative effect of the savings. A total of £1.6m worth of savings will have been removed from the annual treasury budget from 2017/18.

**Table 4: Treasury Savings Targets for 2016/17 to 2017/18**

<b>Saving Reference</b>	<b>Savings Proposal</b>	<b>2015/16 £000</b>	<b>2016/17 £000</b>	<b>2017/18 £000</b>	<b>Total £000</b>
CEX/SAV/27	Increase in Average Return as Rates Rise	500	500	250	1,250
CEX/SAV/29	Increase Counterparty Risk	250	0	0	250
CEX/SAV/54e	Increase Duration Risk	100	0	0	100
	<b>Total Savings</b>	<b>850</b>	<b>500</b>	<b>250</b>	<b>1,600</b>

## 7.7 Return Target 2015/16 to 2017/18

7.7.1 To achieve the interest target the treasury section needs to achieve the following average returns on an estimated average cash balance of £140m (excluding EIB):

2015/16	1.25%
2016/17	1.60%
2017/18	1.80%

7.7.2 The increased return is heavily reliant on interest rates increasing from their current near historic lows. The increase does not need to occur in the first half of 2016 as treasury team has secured a return through longer dated investments, which is currently expected to achieve the 1.60% return for 2016/17. However if rates do not

increase by early 2017 then the return target for 2017/18 will be very challenging to meet without significantly increasing either the duration risk and / or the counterparty risk.

## 7.8 Risk Monitoring

- 7.8.1 The Council recognises that ratings should not be the sole determinant of the quality of an institution and that it is important to continually assess and monitor the financial sector on both a micro and macro basis and in relation to the economic and political environments in which institutions operate. The assessment takes account of information that reflects the opinion of the markets.
- 7.8.2 To this end the Council will engage with its advisors to maintain a monitor on market pricing such as Credit Default Swaps (CDS). However due to the volatility of the CDS market, this will be monitored but will not be included in the investment rating of any financial institutions.
- 7.8.3 Other information sources used will include the financial press and other such information pertaining to the banking sector in order to establish the most robust scrutiny process on the suitability of potential investment counterparties.
- 7.8.4 The aim of the strategy is to generate a list of creditworthy counterparties which will also enable diversification and thus avoidance of concentration risk. The intention of the strategy is to provide security of investment and to minimise risk to the level agreed by Members and included in the Investment Strategy.

## 7.9 Proposed Strategy Changes

The changes in investment strategy compared to the 2015/16 TMSS include:

- 7.9.1 **Duration Risk:** Generally the longer the duration of an investment the better the return. There are a number of risks associated with this including:

- i. the risk of locking in a low rate for a long period; and
- ii. liquidity risks as the cash will not be available for the Council to use.

To achieve the interest income budget set, without taking significant risk the treasury section has sought to increase the duration of a number of investments during 2015/16 where opportunities have arisen to do so. This strategy will continue in 2016/17, although the benefit from higher returns will be weighed against the risk of locking in investments at low rates at a time when there is a view that interest rates will begin to increase.

- 7.9.2 **Counterparty Risk:** During 2016/17 the Council will continue to use the creditworthiness service provided by its advisor, Capita Asset Services, which employs a sophisticated modelling approach utilising credit ratings from the three main credit rating agencies - Fitch, Moody's and Standard and Poor's. The credit ratings of counterparties are supplemented with the following overlays:

- i. credit watches and credit outlooks from credit rating agencies;
- ii. Sovereign ratings to select counterparties from only creditworthy countries.

This modelling approach combines credit ratings, credit watches and credit outlooks in a weighted scoring system for which the end product is a series of colour coded bands which indicate the relative creditworthiness of counterparties. These colour codes are used by the Council to guide the suggested duration for investments and are outlined in detail in Appendix 1 section 16.

The financial institutions the Council invests with all have credit ratings and as a general rule, the lower the credit rating the higher the return. The Council has historically had a prudent, although not completely risk adverse, approach to treasury investments.

The Council have agreed that in order to increase investment income treasury will be able to take additional risk. The additional risk proposed includes:

- i. Maintain the Royal Bank of Scotland limit for deals at £90m with a maximum duration of two years.
- ii. Remove the specific limit for Certificate of Deposits.
- iii. Increase the individual Local Authority Limit over one year to £40m per authority and remove the total Local Authority Limit.
- iv. Revise the minimum credit rating from A / F1 to A- F2.

**7.9.3 Short Term Borrowing:** Currently there is little return (approximately 0.50%) gained from investing over a short-term period and therefore the main focus of the investment strategy will be to take advantage of investments over the medium term (one to three years) where returns of 1.0% to 1.82% is available.

In addition there is a significant difference of approximately £40m between the Councils highest cash balance in February to June and its lowest cash balance in December to January.

To take advantage of medium term investment opportunities as they arise and to allow the Council to smooth the volatility of its cash flow, without overly relying on short-term investments, it will be necessary for the Council to carryout short-term borrowing. Where short-term borrowing is required this will be secured as early as possible to ensure liquidity risk is reduced. Short-term borrowing will also predominantly be from other Public Sector bodies.

#### **7.9.4 Lloyds Banking Group**

The Council has, over the past three years, held a high allocation to Lloyds Banking Group (Lloyds) as it was viewed as having an implied guarantee from the UK government, which held a significant number of Lloyds shares.

In the 2015/16 Investment Strategy the limit for Lloyds was £80m with a maximum investment duration of three years. This limit was dependent on the UK Government holdings of Lloyds shares remaining above 10%. On 29 October 2015 the Government reduced its holdings of Lloyds shares to less than 10%, with a view to sell the remaining shares as soon as possible. As a result the Council's exposure to Lloyds was reduced to £34.5m as at 29 January 2016.

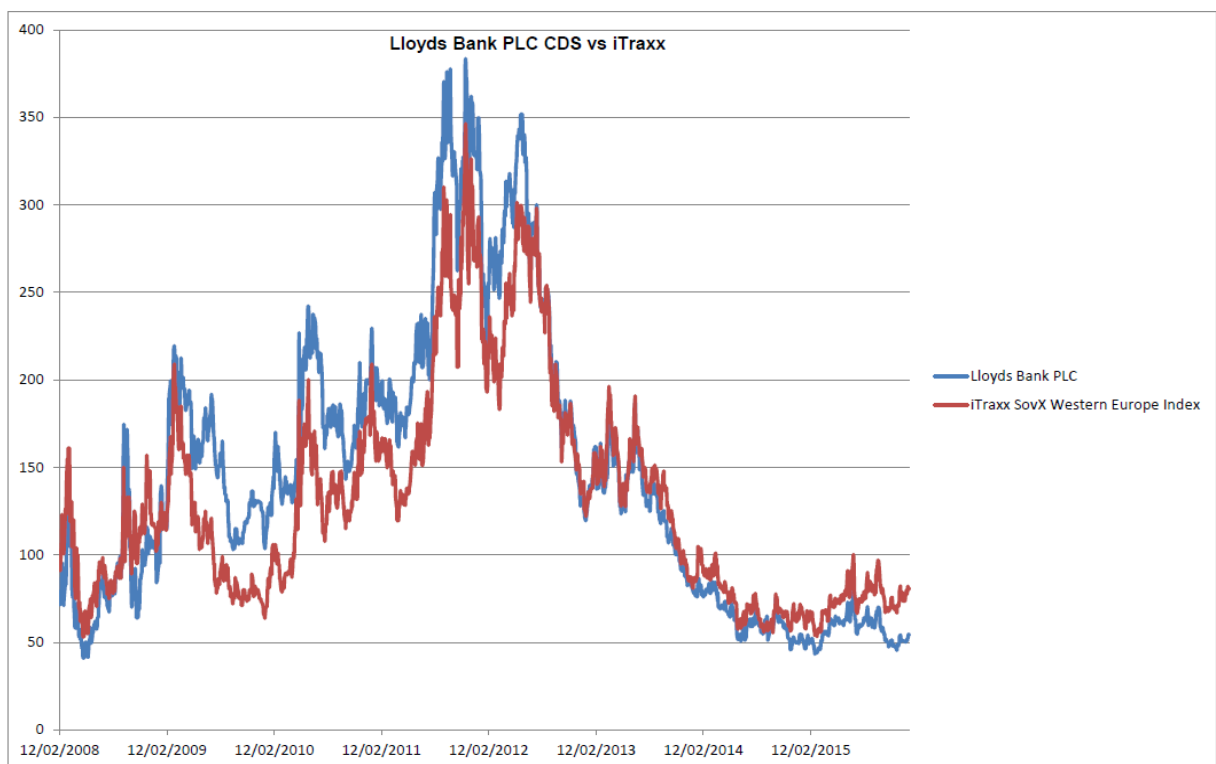
In the 2016/17 TMSS, as part of the overall investment strategy of taking more risk, it is proposed to maintain the duration for Lloyds at 3 years, with a limit of £50m.

CAS, the Council's Treasury Advisors, suggested investment duration with Lloyds is currently 6 months.

In terms of the rating agencies, Fitch's long term rating for Lloyds is A+, which is equivalent to Moody's rating of A1. These ratings are higher than S&P's long-term rating for Lloyds, which was downgraded to A in 2011. All three agencies affirm a stable medium term view on Lloyds at present.

A graph showing the movements in Lloyd's CDS prices over the years 2008 to 2015 benchmarked against the iTraxx, which is used to illustrate credit risk. The graph illustrates the spikes in Lloyds CDS prices over the first five years following the effects of the financial crisis, with the main reason for the spike being Lloyds merger with HBOS. In the latter two years, the graph presents a much more convincing picture as Lloyds' CDS prices have fallen below the iTraxx benchmark.

**Chart 1: Lloyd's CDS prices (2008 to 2015) benchmarked against the iTraxx**



In terms of outlooks, all three ratings agencies changed their methodologies mid-2015, which saw alterations to Lloyds' outlook positions. Moody's revised their bank methodology and changed their outlook on Lloyds to positive on 05/06/2015. Moody's placed Lloyds in the group of other UK banks which they believed to reflect a positive trend, more importantly in terms of the bank's capital and asset quality, but also in terms of their profitability.

S&P changed its outlook on Lloyds to stable on 29/07/2015 to reflect their view that Lloyds over the next two years will continue to build its capital buffer and will see improvements to its statutory earnings. Further, they believe that Lloyds will maintain a risk-adjusted capital ratio in line with S&P's ratio of around 8.5-9% and while they believe asset growth will continue, they do not expect this to be at the expense of any increase in risk appetite. Similarly, on changing its rating methodology, Fitch changed its rating outlook for Lloyds to stable on 14/05/2015

despite the negative outlook on their issuer ratings, with this being primarily due to the fact that Lloyd's bond prices were significantly above their 'a-' viability rating at the time.

As the Authority is considering taking on more credit risk by lending longer than CAS's suggested 6 months, up to 3 years the long-term ratings are more relevant than the short term ratings. The current definition (and therefore the credit opinion) of the rating agencies based on the above long-term ratings are as follows:

	<b>Fitch</b>	<b>Moody's</b>	<b>S&amp;P</b>
<b>Long Term Rating:</b>	<b>A+</b>	<b>A1</b>	<b>A</b>

Definition of Long Term Rating: Very high credit quality Superior credit quality  
Possibly more prone to adverse effects of changes in circumstances than higher-rated categories.

The justification for differing from the Capita limits is outlined below:

On 1<sup>st</sup> December 2015, stress tests were conducted and Lloyds comfortably passed these tests.

Currently all Lloyds ratios and stress testing results confirm that Lloyds is one of the strongest UK banks and is ranked the 16<sup>th</sup> largest bank in the world. Lloyds has the lowest CDS of all financial institutes (49.3bps compared to 72.7bps for HSBC) and has tier 1 capital (core equity capital compared to total risk weighted assets) of 13.7%, which is higher than any other UK bank and provides a significant buffer if there were to be a run on the bank. It performed very well in the recent stress tests and is rated A+ by Fitch (marginally behind HSBC at AA-).

There is still a risk from bail-in but Lloyds would need to write-off £52.8b (mainly mortgages and small business loans) before unsecured senior creditors (the Council) would be affected. That would mean that the equity and sub debt would need to be wiped out before the Council's investments would be affected. This is a bigger loss than the loss incurred when Lloyds absorbed HBOS and is a very unlikely scenario.

Currently Lloyds are paying relatively high returns over the two year and three year period (between 1.40% and 1.82%). If Lloyds did not provide sufficient reward for the risk taken then the additional duration risk would not be taken. However if the rates remain high then the treasury section would seek to take advantage of these.

## 7.10 HRA Investments

7.10.1 Cash balances held by the HRA will be invested as part of the Council's overall treasury strategy. Cash balances will generally earn the average rate of the Council's investments, which will be calculated at the financial year end.

7.10.2 Where there is agreement between the Strategic Director, Finance & Investment (SDF&I) and the Strategic Director Growth and Homes, individual investments can be ring-fenced for the HRA, with the allocations made within the Council's overall treasury strategy requirements.

7.10.3 For further details please refer to the HRA Business Plan.

7.11 **Derivatives:** The use of derivative financial products will continue to be excluded from the strategy.

## 8. The Capital Expenditure Plans 2016/17 – 2018/19

8.1 The Council's Housing and General Fund capital expenditure plans, together with Balances and Reserves, are the key drivers of treasury management activity. The estimates for Capital expenditure, and its funding based on current proposed Revenue Budget and Capital Programmes, are reflected in prudential indicators, which are designed to assist Members overview and confirm capital expenditure plans. The Prudential Indicators are included in Appendix 1A of this report.

8.2 Table 5 below shows the proposed capital expenditure over the coming three financial years. It is a requirement of the Prudential Code to ensure that capital expenditure remains within sustainable limits and, in particular, to consider the impact on Council Tax and, in the case of the HRA, housing rent levels.

**Table 5: Proposed Capital Expenditure 2016 to 2019**

<b>Capital expenditure</b>	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>
	<b>Actual</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>
	<b>£000</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>
General Fund	67,275	53,253	105,838	76,480	11,740
HRA	78,544	81,493	79,059	56,070	63,128
<b>Total</b>	<b>145,819</b>	<b>134,746</b>	<b>184,897</b>	<b>132,550</b>	<b>74,869</b>
<b>Financed by:</b>					
Capital Grants	47,724	48,816	63,206	49,906	0
Section 106	1,187	119,319	1,000	-	0
Revenue Contributions	13,161	1477,421	875	400	400
Capital Receipts	51,861	40,730	56,568	45,338	47,378
HRA Contributions	14,035	22,920	11,741	10,732	15,750
<b>Sub-Total</b>	<b>127,966</b>	<b>114,063</b>	<b>133,390</b>	<b>106,376</b>	<b>63,528</b>
<b>Net financing need for the year</b>	<b>17,853</b>	<b>20,683</b>	<b>51,507</b>	<b>26,174</b>	<b>11,340</b>

8.3 The estimated financing need for the year in Table 5 represents a shortfall of resources resulting in a requirement to borrow. This underlying need to borrow is the CFR. The CFR is simply the total historic outstanding capital expenditure which has not yet been paid for from either revenue or capital resources. Any capital expenditure above, which has not immediately been paid for, will increase the CFR. A portion of the net financing need has already been borrowed as this relates to the Abbey Road Phase 2 and Gascoigne regeneration schemes which was borrowed from the European Investment Bank in January 2015.

8.4 **Other long term liabilities:** the above financing need excludes other long term liabilities, such as PFI and leasing arrangements, which already include borrowing instruments.

8.5 Sufficient headroom has been provided within the Authorised Limit on external borrowing to ensure that any major capital investment projects where finance has

yet to be finalised, are not restricted by this statutory limit. The limit covers any short term borrowing for cash flow purposes as well as long term borrowing for capital projects, finance leases PFI initiatives as well as any unforeseen incidences where expected capital receipts are not forthcoming due to unexpected economic factors.

8.6 In addition sufficient headroom has been included within the Operational Boundary and Authorised Limit if it is necessary for the costs of Reside to be included within the CFR. The estimated additional costs and subsequent increase in the CFR if Reside were included would be an estimated £220m, although the structure would mean that no additional long term borrowing would be required.

8.7 There is potential that the work undertaken by the Growth Commission and Ambition 2020 programme will lead to a change in the Capital Expenditure Plans and, in turn, the Operational Boundary and Authorised Limit. Should any significant changes occur then these will be reflected in the Treasury 2015/16 Outturn Report and/or the Treasury Mid-Year review.

## **9. The Council's Borrowing Strategy and Borrowing Requirement**

9.1 The decision to borrow is a treasury management decision and is taken by the SPF&I under delegated powers of the Council's constitution. The key objective of the Council's borrowing strategy is to secure long term funding for capital projects at borrowing rates that are as low as possible. This can result in a trade off of short term returns on deposits to obtain the best possible rate on long term borrowings.

9.2 The Council is allowed to borrow funds from the capital markets for two purposes:

- (i) Short term temporary borrowing for day to day cash flow purposes to ensure liquidity. This is likeliest to occur during the midyear period when the Council's cash balances are lowest and Council's own cash may be tied up in longer term investments.
- (ii) Long term borrowing to finance the capital programme where the Council can demonstrate the borrowing is affordable. The Council receives external funding (e.g. grants, contributions etc) to meet a large proportion of its capital expenditure but some projects do not attract specific funding. These projects have to be funded by the Council from sources such as capital receipts from the sale of property. However in the relatively recent past, the Council has not had these funds available and therefore has had to borrow.

9.3 Treasury management, and borrowing strategies in particular, continues to be influenced by the absolute level of borrowing rates and also the relationship between short and long term interest rates. Rate forecasts indicate that interest rates will remain low until 2017 which creates a "cost of carry" between what is paid on the borrowing and what is earned on the investment for any new longer term borrowing. This is because borrowing requirements are generally over a long term period of up to 50 years, while cash is currently being invested for a maximum of a year.

9.4 As a result the Council expects to maintain an under-borrowed position throughout 2016/17. This means that the CFR will not be fully funded with loan debt during the year as cash supporting the Council's reserves, balances and cash flow will be used as a temporary measure. This strategy is prudent as it reduces the "cost of carry"

while investment returns remain low, as well as reduces the Council's counterparty risk, which continues to be high and is likely to will continue throughout 2016/17.

9.5 As circumstances can change during the year, the SPF&I will monitor interest rates and adopt a flexible approach to any changes. The Council's borrowing strategy will also give consideration to the following when deciding to take-up new loans:

- Use internal cash balances while the current rate of interest on investments remains low and cash flow forecasts indicate that borrowing is not required;
- Consideration given to weighing the short term advantage of internal borrowing against long term costs if long term borrowing rates increase more than forecast;
- Using PWLB, the EIB or Local Authorities for fixed term and variable rate loans;
- Maintain an appropriate debt balance between PWLB and market debt;
- Ensure new borrowings are drawn at suitable rates and periods; and
- Consider the issue of stocks and bonds if appropriate.

9.6 The Council has £40m of fixed rate Lender's Options Borrower's Option (LOBO) loans and all of them will be in their call period during 2016/17. A LOBO is called when the Lender exercises its right to amend the interest rate on the loan at which point the Borrower (the Council) can accept the revised terms or reject them and repay the loan. LOBO loans present a potential refinancing risk to the Council since the decision to call a LOBO is entirely at the Lender's discretion. As LOBOs currently make up 10.1% of the total long term external debt portfolio and that the Council is operating with high cash balances, this is not a significant risk. Any LOBO called will have the default position of repayment of the LOBO without penalty, i.e. the revised terms will not be accepted.

9.7 **European Investment Bank (EIB) Borrowing:** In 2014/15 Cabinet agreed to borrow £89m from the European Investment Bank (EIB) and £4.5m from the PWLB which will be used as outlined below:

- £66.0m from the EIB to finance the Gascoigne Estate (East) Phase 1;
- £4.5m from the PWLB to fund 50% of 51 private for sale units; and
- £23.0m from the EIB to finance Abbey Road Phase 2.

The EIB borrowing will be a liability for the Council and will be include in the Council's CFR but will then be placed within a Special Purpose Vehicle (SPV), which will then be used to manage the repayment of the borrowing and interest as well as the funding of the regeneration of the Gascoigne Estate (East) Phase 1 and the Abbey Road Phase 2. The SPV will pay for these costs through the rental returns generated.

Although investment decisions will be made on behalf of the SPV, with interest returns paid to the SPV, as the risk will remain with the Council, any investment will need to be made within the parameters set within this report.

The drawdown of the full £89m was completed on 30 January 2015 at a rate of 2.207%. The £4.5m proposed to be borrowed from the PWLB will now be borrowed using internal borrowing.

To allow treasury to maintain flexibility to manage the increase in cash it is recommended that Members agree to maintain the authority delegated to the



SPF&I, in consultation with the Cabinet Member for Finance, to proportionally amend the counterparty lending limits agreed within the TMSS to take into account the initial increase in cash from the EIB but also the subsequent decrease in cash balances as payments are made to the SPV.

## 9.8 Green Investment Bank (GIB) Borrowing

At its meeting on 2 December 2015 the Council agreed to borrow £7.5m from the GIB arising from the Cabinet's decision under Minute 67, 10 November 2015 to finance the Low Energy Street Light Replacement Programme via the UK GIB Green Loan. Officers are currently negotiating contracts with the GIB, with a likely agreement completed by 31 March 2016

## 9.9 HRA Self Financing

Central Government completed the reform of the HRA subsidy system on 28 March 2012. The Council is required to recharge interest expenditure and income attributable to the HRA in accordance with Determination issued by the CLG.

The Determinations do not set out a methodology for calculating the interest rate to use in each instance. The Council is therefore required to adopt a policy that will set out how interest charges attributable to the HRA will be determined. The CIPFA Treasury Management Code of Practice recommends that authorities present this policy in the annual TMSS.

The Council has adopted a two loans pool approach for long term debt.

- The full £265.9m of PWLB long term debt from the HRA reform settlement is allocated to the HRA, with the remaining £129.0m of debt (including EIB borrowing) allocated to the GF; and
- All future long term loans are allocated into either the HRA or GF pool.

A breakdown of the HRA borrowing is provided in table 5 below:

**Table 5: HRA borrowing:**

Loan Type	Loan Amount	Maturity profile	Interest Rate
	£'000s	Yrs	%
PWLB	50,000	25	3.51
PWLB	50,000	35	3.52
PWLB	50,000	43	3.49
PWLB	50,000	44	3.48
PWLB	65,910	45	3.48
<b>Total</b>	<b>265,910</b>		

The HRA debt cap is currently set at £277.65m; however the Council has recently been given approval from the Department for Communities and Local Government, to exceed this by £3.2m in 2016/17 and by a further £10.75m in 2016/17, making the new total cap £291.60 onwards from 2016/17.

## 9.10 Repayment of Borrowing

As short term borrowing rates are usually cheaper than longer term fixed interest rates, there may be potential opportunities to generate savings by switching from long term debt to short term debt. However, any savings will need to be based on the current treasury position and the size of the cost of debt repayment (premiums incurred).

The reasons for any rescheduling to take place will include:

- the generation of cash savings and / or discounted cash flow savings;
- helping to fulfil the treasury strategy; and
- enhance the balance of the portfolio (amend the maturity profile).

No loans are proposed to be repaid in 2016/17.

Internal borrowing can be also be reduced by generating capital receipts, which will replenish cash balances and in accounting terms be used for financing historic spend rather than for new capital projects.

## 9.11 Policy on borrowing in advance of need

The Council will not borrow more than or in advance of its needs purely in order to profit from the investment of the extra sums borrowed. Any decision to borrow in advance will be within forward approved CFR estimates, and will be considered carefully to ensure that value for money can be demonstrated and that the Council can ensure the security of such funds.

Risks associated with any borrowing in advance activity will be subject to prior appraisal and subsequent reporting through the mid-year or annual reporting mechanism.

Given that the Council has held a significant under borrowing position over the past years, the borrowing of £89 million from the EIB has not resulted in the Council borrowing in advance of its needs.

Current forecasts indicate that it is unlikely that the Council will seek to borrow in advance in 2016/17.

## 10. Minimum Revenue Provision Policy Statement

10.1 In accordance with Statutory Instrument 2008 number 414 and new guidance issued by the Government under section 21 (1A) of the Local Government Act 2003 a statement on the Council's policy for its annual MRP needs to be approved before the start of the financial year.

10.2 The Council are asked to approve the Minimum Revenue Provision Statement set out in Appendix 5.

## **11. Member and Officer Training**

- 11.1 The CIPFA Code requires the responsible officer, the SPF&I, to ensure that members with responsibility for treasury management receive adequate training in treasury management. Training will be arranged for Members as required. The training needs of treasury management officers are periodically reviewed.

## **12. Financial Implications**

- 12.1 The financial implications are discussed in detail in this report.

## **13. Legal Implications**

Implications completed by: Eldred Taylor-Camara, Legal Group Manager

- 13.1 The Local Government Act 2003 (the “Act”) requires the Council to set out its treasury strategy for borrowing and to prepare an Annual Investment Strategy which sets out the Council’s policies for managing its investments and for giving priority to the security and liquidity of those investments. The Council also has to ‘have regard to’ the CIPFA Code of Practice on Treasury Management and the CIPFA Prudential Code for Capital Finance in Local Authorities when carrying out its functions under the Act.

- 13.2 This report sets out the Councils strategies in accordance with the Act.

## **14. Other Implications**

- 14.1 **Risk Management:** This report has risk management issues for the Council, primarily that a counterparty could cease trading or risk that interest rates would rise adversely. The mitigation of these is contained in this report.

**Public Background Papers Used in the Preparation of the Report:** None

### **List of appendices:**

- Appendix 1 – Economic Update
- Appendix 2 – Annual Investment Strategy
- Appendix 3 – Interest Rate Forecasts 2016 – 2019
- Appendix 4 – Prudential Indicators 2016/17 – 2017/18
- Appendix 5 – Minimum Revenue Provision Policy Statement
- Appendix 6 – Treasury management scheme of delegation

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## Economic Update

### United Kingdom

UK GDP growth rates of 2.2% in 2013 and 2.9% in 2014 were the strongest growth rates of any G7 country; the 2014 growth rate was also the strongest UK rate since 2006 and the 2015 growth rate is likely to be a leading rate in the G7 again. Quarter 1 of 2015 was weak at +0.4% (+2.9% y/y), although there was a slight increase in quarter 2 to +0.5% before weakening again to +0.4% (+2.1% y/y) in quarter 3. The Bank of England's November 2015 Inflation Report included a forecast for growth to remain around 2.5% – 2.7% over the next three years. For this recovery, however, to become more balanced and sustainable in the longer term, it still needs to move away from dependence on consumer expenditure and the housing market to manufacturing and investment expenditure. The strong growth since 2012 has resulted in unemployment falling quickly to a current level of 5.2%.

The MPC has been particularly concerned that the squeeze on the disposable incomes of consumers should be reversed by wage inflation rising back above the level of CPI inflation in order to underpin a sustainable recovery. It has, therefore, been encouraging in 2015 to see wage inflation rising significantly above CPI inflation which has been around zero since February. However, it is unlikely that the MPC would start raising rates until wage inflation was expected to consistently stay over 3%, as a labour productivity growth rate of around 2% would mean that net labour unit costs would still only be rising by about 1% y/y. The Inflation Report was notably subdued in respect of the forecasts for CPI inflation; this was expected to barely get back up to the 2% target within the 2-3 year time horizon.

The increase in the forecast for inflation at the three year horizon was the biggest in a decade and at the two year horizon it was the biggest since February 2013. However, the first round of falls in oil, gas and food prices in late 2014 and in the first half 2015, will fall out of the 12 month calculation of CPI during late 2015 / early 2016 but only to be followed by a second, more recent, round of falls in fuel and commodity prices which will now delay a significant tick up in inflation from around zero. CPI inflation is now expected to get back to around 1% in the second half of 2016 and not get near to 2% until 2017, though the forecasts in the Report itself were for an even slower rate of increase. It is also possible that there could be a further round of falls in the cost of oil and commodity imports during 2016, driven by both a fall in prices and a fall in the value of currencies of emerging countries. This could cause a further delay in the pick up in inflation.

There is, therefore, considerable uncertainty around how quickly pay and CPI inflation will rise in the next few years and this makes it difficult to forecast when the MPC will decide to make a start on increasing Bank Rate. There are also concerns around the fact that the central banks of the UK and US currently have few monetary policy options left to them given that central rates are near to zero and huge QE is already in place. There are, accordingly, arguments that rates ought to rise sooner and quicker, so as to have some options available for use if there was another major financial crisis in the near future. But it is unlikely that either would aggressively raise rates until they are sure that growth was securely embedded and 'noflation' was not a significant threat.

The forecast for the first increase in Bank Rate has, therefore, been pushed back progressively during 2015 from Q4 2015 to Q2 2016. Increases after that are also likely to be at a much slower pace, and to much lower final levels than prevailed before 2008, as increases in Bank Rate will have a much bigger effect on heavily indebted consumers and householders than they did before 2008. There has also been an increase in momentum towards holding a referendum on membership of the EU in 2016, rather than in 2017, with Q3 2016 being the current front runner in terms of timing; this could impact on MPC considerations as to whether to hold off from a first increase in Q2.

The Government's revised Budget in July eased the pace of cut backs from achieving a budget surplus in 2018/19 to achieving that in 2019/20 and this timetable was maintained in the November Budget.

## **USA**

GDP growth in 2014 of 2.4% was followed by Q1 2015 growth, which was depressed by exceptionally bad winter weather, at only +0.6% (annualised). However, growth rebounded remarkably strongly in Q2 to 3.9% before falling back to +2.0% in Q3.

Until the turmoil in financial markets in August, caused by fears about the slowdown in Chinese growth, it had been expected that the Fed would start to increase rates in September. The Fed pulled back from that first increase due to global risks which might depress US growth and put downward pressure on inflation, as well as a 20% appreciation of the dollar which has caused the Fed to lower its growth forecasts.

Although the non-farm payrolls figures for growth in employment in August and September were disappointingly weak, the October figure was stunningly strong while November was also reasonably strong; this, therefore, opened up the way for the Fed. to embark on its first increase in rates of 0.25% at its December meeting. However, the accompanying message with this first increase was that further increases will be at a much slower rate, and to a much lower ultimate ceiling, than in previous business cycles, mirroring comments by our own MPC.

## **Euro Zone**

In the Eurozone, the ECB started a €1.1 trillion programme of quantitative easing to buy up high credit quality government and other debt of selected EZ countries. This programme of €60bn of monthly purchases started in March 2015 and it is intended to run initially to September 2016. At the ECB's December meeting, this programme was extended to March 2017 but was not increased in terms of the amount of monthly purchases. The ECB also cut its deposit facility rate by 10bps from -0.2% to -0.3%. This programme has had a small positive effect in helping a recovery in consumer and business confidence and a start to some improvement in growth. GDP rose to 0.5% in quarter 1 2015 (1.3% y/y) but eased back to +0.4% (+1.6% y/y) in quarter 2 and to +0.3% (+1.6%) in quarter 3. Financial markets were disappointed by the ECB's lack of more decisive action in December and it is likely that it will need to boost its QE programme if it is to succeed in significantly improving growth in the EZ and getting inflation up from the current level of around zero to its target of 2%.

## **China**

As for China, the Government has been very active during 2015 and the start of 2016 in implementing several stimulus measures to try to ensure the economy hits the growth target of 7% for the current year. It has also sought to bring some stability after the major fall in the onshore Chinese stock market during the summer and then a second bout in January 2016. Many commentators are concerned that recent growth figures could have been massaged to hide a downturn to a lower growth figure. There are also major concerns as to the creditworthiness of much of the bank lending to corporates and local government during the post 2008 credit expansion period. Overall, China is still expected to achieve a growth figure that the EU would be envious of. Nevertheless, there are growing concerns about whether the Chinese economy could be heading for a hard landing and weak progress in rebalancing the economy from an over dependency on manufacturing and investment to consumer demand led services. There are also concerns over the volatility of the Chinese stock market, which was the precursor to falls in world financial markets in August and September and again in January 2016, which could lead to a flight to quality to bond markets. In addition, another devaluation of the Chinese currency in January 2016 will put further downward pressure on the currencies of emerging countries dependent for earnings on exports of their commodities.

## **Emerging Markets**

There are also considerable concerns about the vulnerability of some emerging countries, and their corporates, which are getting caught in a perfect storm. Having borrowed massively in dollar denominated debt since the financial crisis, (as investors searched for yield by channelling investment cash away from western economies with dismal growth, depressed bond yields and near zero interest rates into emerging countries), there is now a strong flow back to those western economies with strong growth and a path of rising interest rates and bond yields.

The currencies of emerging countries have therefore been depressed by both this change in investors' strategy, and the consequent massive reverse cash flow, and also by the expectations of a series of central interest rate increases in the US which has caused the dollar to appreciate significantly. In turn, this has made it much more costly for emerging countries to service their dollar denominated debt at a time when their earnings from commodities are depressed by a simultaneous downturn in demand for their exports and a deterioration in the value of their currencies. There are also likely to be major issues when previously borrowed debt comes to maturity and requires refinancing at much more expensive rates.

Corporates (worldwide) heavily involved in mineral extraction and / or the commodities market may also be at risk and this could also cause volatility in equities and safe haven flows to bonds. Financial markets may also be buffeted by the sovereign wealth funds of those countries that are highly exposed to falls in commodity prices and which, therefore, may have to liquidate investments in order to cover national budget deficits.

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## Annual Investment Strategy

### 1. Treasury Management Practice: Credit and Counterparty Risk Management

In 2010 the CLG issued Investment Guidance, which forms the structure of the Council's policy below (please note that these guidelines do not apply to trust funds or pension funds which operate under a different regulatory regime). The key intention of the Guidance is to maintain the current requirement for councils to invest prudently, and that priority is given to security and liquidity before yield.

To facilitate this objective the guidance requires this Council to have regard to the 2011 revised CIPFA publication Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes. In accordance with the Code, the Strategic Director -Finance & Investments (SDFI) has produced its treasury management practices (TMPs). This part, TMP 1(5), covering investment counterparty policy requires approval each year.

Continuing regulatory changes in the banking sector are designed to see greater stability, lower risk and the removal of expectations of Government financial support should an institution fail. The withdrawal of implied sovereign support is anticipated to have an effect on ratings applied to institutions.

This will result in the key ratings used to monitor counterparties being the Short and Long Term ratings only. Viability, financial strength and support ratings previously applied will effectively become redundant. This change does not reflect deterioration in the credit environment but rather a change of method in response to regulatory changes.

As with previous practice, ratings will not be the sole determinant of the quality of an institution and that it is important to continually assess and monitor the financial sector on both a micro and macro basis and in relation to the economic and political environments in which institutions operate.

The assessment will also take account of information that reflects the opinion of the markets. To this end the Council will engage with its advisors to maintain a monitor on market pricing such as "credit default swaps".

Other information sources used will include the financial press, share price and other such information pertaining to the banking sector in order to establish the most robust scrutiny process on the suitability of potential investment counterparties.

Investment instruments identified for use in the financial year are listed in this appendix under the 'specified' and 'non-specified' investments categories.

#### 1.1 Annual Investment Strategy

The key requirements of the Code and investment guidance are to set an annual investment strategy covering the identification and approval of the following:

1. The strategy guidelines for choosing and placing investments, particularly non-specified investments.
2. The principles to be used to determine the maximum duration for investments.
3. Specified investments that the Council will use. These are high security and high liquidity investments in sterling and with a maturity of no more than a year.
4. Non-specified investments, clarifying the greater risk implications, identifying the general types of investment that may be used and a limit to the overall amount of various categories that can be held at any time.
5. An additional consideration is the elevated cash position the Council currently has as a result of borrowing £89m from the European Investment Bank (EIB). The EIB borrowing was completed prior to the completion of Abbey 2 and prior to any work being carried out on Gascoigne,

## 1.2 Creditworthiness policy

This Council applies the creditworthiness service provided by CAS. This service employs a modelling approach utilising credit ratings from the three main credit rating agencies (Fitch, Moody's & Standard and Poor's). This approach combines credit ratings, credit watches and credit outlooks in a weighted scoring system for which the end product is a series of colour coded bands which indicate the relative creditworthiness of counterparties. These colour codes are used by the Council to determine the suggested duration for investments.

The Council will therefore use counterparties within the following durational bands:

- **Yellow** 5 years
- **Dark pink** 5 years for enhanced money market fund with a credit score of 1.25
- **Light pink** 5 years for enhanced money market fund with a credit score of 1.50
- **Purple** 2 years
- **Blue** 2 year (only applies to nationalised or semi nationalised UK Banks)
- **Orange** 1 year
- **Red** 6 months
- **Green** 100 days
- **No colour** not to be used

Typically the minimum credit ratings criteria the Council use will be a Short Term rating (Fitch or equivalents) of F2 and a Long Term rating of A-. There may be occasions when the counterparty ratings from one rating agency are marginally lower than these ratings but may still be used. In these instances consideration will be given to the whole range of ratings available, or other topical market information, to support their use.

The Council is alerted to changes to ratings of all three agencies through its use of our creditworthiness service. If a downgrade results in the counterparty / investment scheme no longer meeting the Council's minimum criteria, its further use as a new investment will be withdrawn immediately.

In addition to the use of credit ratings the Council will be advised of information in movements in credit default swap spreads against the iTraxx benchmark and other market data on a weekly basis. Extreme market movements may result in downgrade of an institution or removal from the Council's lending list.

Sole reliance will not be placed on the use of this external service. In addition this Council will also use market data and market information, information on sovereign support for banks and the credit ratings of that supporting government.

### **1.3 The Monitoring of Investment Counterparties**

The credit rating of counterparties will be monitored regularly. The Council receives credit rating information from its advisor as and when ratings change, and counterparties are checked promptly. Any counterparty failing to meet the criteria will be removed from the list immediately by the SDFI, and if required new counterparties which meet the criteria will be added to the list.

During 2015/16 UK Government reduced its holding in Lloyds Banking Group (Lloyds) to below 10% and thereby removed the government support provided. This change resulted in the SDFI restricting future investments to those allowable for banks with the same credit rating as Lloyds (currently a Fitch rating of A).

### **1.4 Use of External Cash Manager(s)**

The Council no longer uses an external cash manager within its investment portfolio. Were the Council to use an external cash manager in the future there would be a requirement for the Cash Manager to comply with the Annual Investment Strategy. Any agreement between the Council and the cash manager will stipulate guidelines, durations and other limits in order to contain and control risk. The investment restrictions for a cash manager have been included in the Credit Quality Criteria and Allowable Financial Instruments outlined below.

### **1.5 Use of additional information other than credit ratings**

Additional requirements under the Code require the Council to supplement credit rating information. Whilst the above criteria relies primarily on the application of credit ratings to provide a pool of appropriate counterparties for officers to use, additional operational market information will be applied before making any specific investment decision from the agreed pool of counterparties.

This additional market information (for example CDSs, negative rating watches/outlooks) will be applied to compare the relative security of differing investment counterparties.

### **1.6 Credit Quality Criteria and Allowable Financial Instruments**

The table on the following page sets out the credit quality criteria for counterparties and allowable financial instruments for Council investments. These are split into Specified and Non-specified investments.

### **1.7 Specified Investments - Sterling investments of less than one year maturity, or those which could be for a longer period but where the Council has the right to be**

repaid within 12 months. These are considered low risk assets where the possibility of loss of principal or investment income is small.

These would include sterling investments which would not be defined as capital expenditure with:

1. The UK Government (such as the Debt Management Account Deposit Facility, UK Treasury Bills or Gilts with less than one year to maturity).
2. Supranational bonds of less than one year's duration.
3. A local authority, parish council or community council.
4. Pooled investment vehicles (PIV) with a high credit rating. This covers PIVs such as money market funds, rated AAA by the rating agencies.
5. A body (i.e. bank or building society), of sufficiently high credit quality.

## 1.8 Non-Specified Investments

Non-specified investments are any other type of investment (i.e. not defined as Specified above). The identification and rationale supporting the selection of these other investments and the maximum limits to be applied are set out below. Non specified investments would include any sterling investments with:

<b>Non Specified Investment Category (maturity greater than one year)</b>	
<b>a.</b>	<p><b>Supranational Bonds</b></p> <p><b>(a) Multilateral development bank bonds</b> These are bonds defined as an international financial institution having as one of its objects economic development, either generally or in any region of the world (e.g. European Investment Bank etc.).</p> <p><b>(b) A financial institution that is guaranteed by the UK Government</b> The security of interest and principal on maturity is on a par with the Government and so very secure. These bonds usually provide returns above equivalent gilt edged securities. However the value of the bond may rise or fall before maturity and losses may accrue if the bond is sold before maturity.</p>
<b>b.</b>	<p><b>Gilt edged securities.</b> Government bonds which provide the highest security of interest and the repayment of principal on maturity. Similar to category (a) above, the value of the bond may rise or fall before maturity and losses may accrue if the bond is sold before maturity.</p>
<b>c.</b>	<p><b>The Council's own bank</b> if it fails to meet the basic credit criteria. In this instance balances will be minimised as far as is possible. The Council's current bankers are Lloyds Banking Group which is currently supported by the UK government.</p>
<b>d.</b>	<p><b>Any bank or building society</b> that has a minimum long term credit rating of A- or equivalent, for deposits with a maturity of greater than one year (including forward deals in excess of one year from inception to repayment).</p>

<b>e.</b>	<b>Share capital or loan capital</b> in a body corporate – The use of these instruments will be deemed to be capital expenditure, and as such will be an application (spending) of capital resources. Revenue resources will not be invested in corporate bodies. There is a higher risk of loss with these types of instruments.
<b>f.</b>	<b>Pooled property or bond funds</b> – normally deemed to be capital expenditure, and as such will be an application (spending) of capital resources. Revenue resources will not be invested in corporate bodies.

*Within categories c and d, and in accordance with the Code, the Council has developed additional criteria to set the overall amount of monies which will be invested in these bodies. This criteria is set out in section 11.3 in the body of the report. In respect of categories e and f, these will only be considered after obtaining external advice and subsequent Member approval.*

## **1.9 Alternative investment instruments**

Currently the Council invests its cash with financial institutions, other Local Authorities, with the UK Government or through loans to companies and schools where prior agreement has been made by Cabinet.

There are a range of alternative investments instruments that the Council could invest in and these are reviewed at least annually to see if they meet the Council's risk appetite. There are varying degrees of risks associated with such asset classes and these need comprehensive appreciation. It is not just credit risk that needs to be understood, but liquidity and interest rate / market risk as well, although these can often be intertwined. Any option in which an investor hopes to generate an elevated rate of return will almost always introduce a greater level of risk. By carefully considering and understanding the nature of these risks, an informed decision can be taken. These instruments are summarised below:

### **Property Funds**

The Council's Pension Fund already invests in property funds and these have provided a good rate of return, especially over the past two years. The costs to invest in property and then to disinvest are around 8% but steady income streams and capital appreciation can provide a net return of 6% to 8% per annum.

Investing in property is not risk free and there is the potential to lose not just the investment return but some of the original amount invested and the investment period is generally long term (over 5 years). The use of these instruments can also be deemed capital expenditure, and as such will be an application (spending) of capital resources.

This type of investment is appropriate where a council has an amount of cash that it is unlikely to use over the long term. There is currently some significant uncertainty over the Council's medium term cash position, both positively as the Council uses its cash balances to invest in growth but also as a result of budget pressures reducing the Council's reserves. In addition the Council currently has a significant housing investment strategy which is likely to use a significant part of the Council's cash

balances. As a result it is unlikely that the treasury section will seek to invest in a Property Fund.

### **Challenger Banks**

At present Challenger Banks, which includes Metro Bank, Tesco Bank and Aldemore do not have credit ratings and so fall outside of the Council's investment strategy criteria. It is likely that some of these banks will get a credit rating in coming years, and treasury will continue to monitor these banks as the UK banking environment would benefit from additional competition.

**Specified Investments and Non-Specified Investments Limits and Criteria**

Counterparty / Financial Instrument	Minimum Credit Rating Criteria / Colour Band	Specified Investments		Non-Specified Investments	
		Maximum Duration	Counterparty Limit £m	Maximum Duration	Counterparty Limit £m
<b>Lloyds Banking Group</b> SIBA (Call) Accounts Term Deposits, CDs, Structured Deposits, Corporate Bonds	A+	Up to 1 year	£50m	1 to 3 years	£50m
<b>Government Supported UK Bank – Royal Bank of Scotland</b> SIBA (Call) Accounts Term Deposits, CDs, Structured Deposits, Corporate Bonds	Blue	Up to 1 year	£90m	1 to 3 years	£90m
<b>Other UK Banks &amp; Building Societies</b> SIBA (Call) Accounts Term Deposits, CDs, Structured Deposits, Corporate Bond	Yellow Purple Orange Red Green No Colour	N/A N/A Up to 1 year To 6 Months To 3 months Not for use	£30m	1 to 5 years 1 to 2 years N/A N/A N/A N/A	£30m per counterparty
<b>Bond Funds - Corporate Bonds</b>	Short-term F2, Long Term A-	Up to 1 year	£20m	1 to 2 years	£20m
<b>Local Authorities:</b> Term Deposits	Not credit rated	Up to 1 year	£40m per authority	1 to 3 year	£40m per authority
<b>UK Government</b> Treasury Bills Gilts DMADF	UK Sovereign Rating	Up to 1 year	£50m	1 to 5 years	£20m
<b>Money Market Funds (stable NAV only)</b>	AAA	T+1	£30m per Manager	N/A	N/A
<b>Property Funds</b>	N/A	N/A		N/A	£15m

## 1.9 Use of other Local Authorities

For cash loans the Local Government Act (LGA) 2003 s13 suggests the credit risk attached to English, Welsh and Scottish local authorities is an acceptable one.

## 1.10 Use of Multilateral Development Banks

S15 of the LGA Act 2003 SI 2004 no. 534 amended provides regulations to clarify that investments in multilateral development banks were not to be treated as being capital expenditure. Should the Council invest in such institutions then only such institutions with AA credit rating and government backing would be invested in consultation with the Council's treasury adviser and the S151 Officer.

## 1.11 Use of Brokers

The Council deals with most of its counterparties directly but from time to time the Council will use the services of brokers to act as agents between the Council and its counterparties when lending or borrowing. However no one broker will be favoured by the Council. The Council will ensure that sufficient quotes are obtained before investment or borrowing decisions are made via brokers.

## 1.12 Country limits and Use of Foreign Banks

The Council has determined that it will only use approved counterparties from countries with a minimum sovereign credit rating of AA (excluding the United Kingdom) from Fitch. This list will be added to, or deducted from, by officers should ratings change in accordance with this policy. This will ensure that the Council's investments are not concentrated in too few counterparties or countries.

Given the strength of some foreign banks the Council will invest in strong non UK foreign banks whose sovereign and individual ratings meet its AA minimum criteria.

### Approved countries for investments (Credit Rating as at 31 December 2015)

Country	Fitch	S&P	Moody's	Country	Fitch	S&P	Moody's
Australia	AAA	AAA	Aaa	United States	AAA	AA+	Aaa
Canada	AAA	AAA	Aaa	Abu Dhabi	AA	AA	AA
Denmark	AAA	AAA	Aaa	Belgium	AA	AA	Aa3
Germany	AAA	AAA	Aaa	Kuwait	AA	AA	Aa2
Luxembourg	AAA	AAA	Aaa	New Zealand	AA	AA	Aaa
Netherlands	AAA	AAA	Aaa	Saudi Arabia	AA	AA-	Aa3
Norway	AAA	AAA	Aaa	France	AA	AA	Aa2
Singapore	AAA	AAA	Aaa	Bermuda	AA+	AA-	Aa2
Sweden	AAA	AAA	Aaa	Hong Kong	AA+	AAA	Aa1
Switzerland	AAA	AAA	Aaa	UK	AA+	AAA	Aa1
Finland	AAA	AA+	Aaa	Austria	AA+	AA+	Aaa

## 1.13 Provisions for Credit-related losses

If any of the Council's investments appeared at risk of loss due to default, (i.e. a credit-related loss and not one resulting from a fall in price due to movements in



interest rates) the Council will make revenue provision of an appropriate amount. Where there is a loss of the principal amount borrowed due to the collapse of the institution, the Council will seek legal and investment advice.

#### **1.14 End of year investment report**

At the end of the financial year, the Council will report on its investment activity as part of its Annual Treasury Report.

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## Interest Rate Forecasts 2014 – 2018

	NOW	Mar-16	Jun-16	Sep-16	Dec-16	Mar-17	Jun-17	Sep-17	Dec-17	Mar-18	Jun-18	Sep-18	Dec-18	Mar-19
<b>BANK RATE</b>	0.50	0.50	0.50	0.50	0.75	0.75	1.00	1.00	1.25	1.25	1.50	1.50	1.75	1.75
<b>3 month LIBID</b>	0.52	0.50	0.50	0.60	0.80	0.90	1.00	1.10	1.30	1.40	1.50	1.60	1.80	1.90
<b>6 month LIBID</b>	0.66	0.70	0.70	0.80	0.90	1.00	1.20	1.30	1.50	1.60	1.70	1.80	2.00	2.20
<b>12 month LIBID</b>	0.98	1.00	1.00	1.10	1.20	1.30	1.50	1.60	1.80	1.90	2.00	2.10	2.30	2.40
<b>5 yr PWLB</b>	1.92	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00	3.10	3.20
<b>10 yr PWLB</b>	2.58	2.60	2.70	2.80	2.90	3.00	3.10	3.20	3.30	3.40	3.50	3.60	3.60	3.70
<b>25 yr PWLB</b>	3.36	3.40	3.40	3.50	3.60	3.70	3.70	3.80	3.90	4.00	4.00	4.10	4.10	4.10
<b>50 yr PWLB</b>	3.18	3.20	3.20	3.30	3.40	3.50	3.60	3.70	3.80	3.90	3.90	4.00	4.00	4.00

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### Prudential Indicators 2015/16 – 2018/19

1. The Council's capital expenditure plans are the key driver of treasury management activity. The output of the capital expenditure plans is reflected in the PIs, which are designed to assist members overview and confirm capital expenditure plans.
- 1.1 **Capital expenditure** is a summary of the Council's capital expenditure plans, both those agreed previously, and those forming part of this budget cycle. Members are asked to approve the capital expenditure forecasts in Table 1:

**Table 1: Capital Expenditure Forecast 2015 to 2019**

<b>Capital expenditure</b>	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>
	<b>Actual £000</b>	<b>Approved £000</b>	<b>Estimate £000</b>	<b>Estimate £000</b>	<b>Estimate £000</b>
Adult & Community Service	9,487	2,192	3,656	1,320	400
Children's Services	29,953	27,111	61,199	50,031	-
Environment	3,887	4,005	2,794	2,132	1,040
Chief Executive	6,995	10,669	9,742	4,620	172
Housing	16,928	9,222	28,379	11,638	1,244
<b>General Fund</b>	<b>67,250</b>	<b>53,199</b>	<b>105,769</b>	<b>69,740</b>	<b>2,856</b>
HRA	78,544	81,493	79,059	56,070	63,128
<b>Total - Approved Capital Programme</b>	<b>145,794</b>	<b>134,691</b>	<b>184,828</b>	<b>125,810</b>	<b>65,984</b>
<b>Finance Lease &amp; PFI Additions</b>	25	54	69	88	96
<b>Corporate Borrowing to be allocated</b>				6,651	8,788
<b>TOTAL</b>	<b>145,819</b>	<b>134,746</b>	<b>184,897</b>	<b>132,550</b>	<b>74,868</b>

Table 2 below summarises the above capital expenditure plans and how these plans will be financed by capital or revenue resources. Any shortfall of resources results in a funding borrowing need.

A significant part of the borrowing need (£41m) includes financing of Reside 2 (Abbey 2 and Gascoigne regeneration), which was borrowed in advance of need from the European Investment Bank in January 2015. Members have agreed to use up to £2m from reserves to cover the cost of carry from borrowing in advance.

In 2014/15 and 2015/16 £27m was spent on Reside 2 and is reflected in the Actual spend for 2014/15 and the Approved spend in 2015/16. Abbey 2 is now being let and is bringing in income, which will predominantly be used to repay the loan and interest to the EIB.

**Table 2: Capital Expenditure Financing Plans 2015 to 2019**

<b>Capital expenditure</b>	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>
	<b>Actual £000</b>	<b>Approved £000</b>	<b>Estimate £000</b>	<b>Estimate £000</b>	<b>Estimate £000</b>
General Fund*	67,275	53,253	102,838	56,055	11,740
HRA	78,544	81,493	79,059	56,070	63,128
<b>Total</b>	<b>145,819</b>	<b>134,746</b>	<b>181,897</b>	<b>112,125</b>	<b>74,869</b>
<b>Financed by:</b>					
Capital Grants and Contributions	47,724	48,816	60,206	29,481	0
Section 106	1,187	119,319	1,000	-	0
Revenue / Reserve Contributions	13,161	1477.421	875	400	400
HRA Contributions (incl MRA)	51,861	40,730	56,568	45,338	47,378
Capital Receipts	14,035	22,920	11,741	10,732	15,750
<b>Sub-Total</b>	<b>127,966</b>	<b>114,063</b>	<b>130,390</b>	<b>85,951</b>	<b>63,528</b>
<b>Net financing need for the year (borrowing)</b>	<b>17,853</b>	<b>20,683</b>	<b>51,507</b>	<b>26,174</b>	<b>11,340</b>

\*(incl. PFI, Leases and borrowing still to be allocated to schemes)

## 1.2 The Council's borrowing requirement (CFR)

The second prudential indicator is the Council's Capital Financing Requirement (CFR). The CFR is simply the total historic outstanding capital expenditure which has not yet been paid for from either revenue or capital resources. It is essentially a measure of the Council's underlying borrowing need. Any capital expenditure above, which has not immediately been paid for, will increase the CFR.

The CFR does not increase indefinitely, as the minimum revenue provision (MRP) is a statutory annual revenue charge which broadly reduces the borrowing need in line with each assets life.

The CFR includes any other long term liabilities (e.g. PFI schemes, finance leases). Whilst these increase the CFR, and therefore the Council's borrowing requirement, these types of scheme include a borrowing facility and so the Council is not required to separately borrow for these schemes. Table 3 sets out the CFR until 2018/19.

The significant increase in the CFR in 2014/15 is due to the inclusion of the costs for Reside 1. The Reside 1 costs are financed through an external lender via a Special Purpose Vehicle and is effectively self financing.

The Council is asked to approve the CFR projections.

**Table 3: Council's CFR 2015/16 – 2017/18**

<b>Capital expenditure</b>	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>
	<b>Actual £000</b>	<b>Estimate £000</b>	<b>Estimate £000</b>	<b>Estimate £000</b>	<b>Estimate £000</b>
<b>Capital Financing Requirement</b>					
CFR – General Fund	207,701	206,659	210,999	217,127	219,447
Reside 1	84,847	84,481	84,100	83,703	83,291
Reside 2	17,828	27,050	55,209	66,847	68,091
CFR – Housing	267,722	270,922	281,672	281,672	281,672
<b>Total CFR</b>	<b>578,098</b>	<b>589,112</b>	<b>631,980</b>	<b>649,350</b>	<b>652,501</b>
<b>Movement in CFR</b>	<b>93,355</b>	<b>11,014</b>	<b>42,868</b>	<b>17,369</b>	<b>3,151</b>
<b>Movement in CFR represented by</b>					
Net financing need for the year	102,936	20,683	51,507	26,174	11,340
Less MRP and other financing movements	(9,581)	(9,669)	(8,638)	(8,804)	(8,188)
<b>Movement in CFR</b>	<b>93,355</b>	<b>11,014</b>	<b>42,868</b>	<b>17,369</b>	<b>3,151</b>

## 2. Affordability prudential indicators

The previous section covered the overall capital and control of borrowing PIs, but within this framework PIs are required to assess the affordability of the capital investment plans. These provide an indication of the impact of the capital investment plans on the Council's overall finances. The Council is asked to approve the following indicators:

### 2.1 Actual and estimates of the ratio of financing costs to net revenue stream

This PI identifies the trend in the cost of capital (borrowing and other long term obligation costs net of investment income) against the net revenue stream. The estimates of financing costs include current commitments and the proposals in this budget report.

<b>%</b>	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>
	<b>Actual</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>
<b>General Fund</b>	6.2	5.9	6.2	8.0	8.6
<b>HRA</b>	9.1	8.7	9.0	8.7	8.7

### 2.2 Estimates of the incremental impact of capital investment decisions on council tax (Band D).

This PI identifies the revenue costs associated with proposed changes to the three year capital program recommended in the budget report compared to the Council's existing approved commitments and current plans. The expectation is that the budget will be based on approved capital schemes' existing commitments and current plans but, if on review, this is not the case this will be reported to Members.

<b>£</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>
<b>Council tax - band D</b>	Nil	Nil	Nil	Nil

### 2.3 Estimates of the incremental impact of capital investment decisions on housing rent levels.

Similar to the council tax calculation, this PI identifies the trend in the cost of proposed changes in the housing capital program recommended in the budget report compared to the Council's existing commitments and plans, expressed as a discrete impact on weekly rent levels. This indicator shows the revenue impact on newly proposed changes. Any discrete impact will be constrained by rent controls.

#### Incremental impact of capital investment decisions on housing rent levels

£	2015/16	2016/17	2017/18	2018/19
Housing rent levels	Nil	Nil	Nil	Nil

### 3. Treasury indicator and limit for investments greater than 364 days.

The limit is set with regard to the Council's liquidity requirements and to reduce the need for early sale of an investment. They are based on the availability of funds at yearend. The Council is asked to approve the treasury indicator and limit:

£'000s	2015/16	2016/17	2017/18	2018/19
Maximum principal sums invested > 364 days	200,000	170,000	150,000	130,000

### 4. Treasury Indicators: Limits to Borrowing Activity

There are three debt related treasury activity limits. The purpose of these are to restrain the activity of the treasury function within certain limits, thereby managing risk and reducing the impact of any adverse movement in interest rates. However, if these are set to be too restrictive they will impair the opportunities to reduce costs / improve performance. The indicators are:

- Upper limits on variable interest rate exposure: identifies a maximum limit for variable interest rates based upon the debt position net of investments;
- Upper limits on fixed interest rate exposure: is similar to the previous indicator and covers a maximum limit on fixed interest rates; and
- Maturity structure of borrowing: gross limits to reduce the Council's exposure to large fixed rate sums requiring refinancing.

The Council is asked to approve the following treasury indicators and limits:

Interest rate exposures	2016/17	2017/18	2018/19
	<b>Upper</b>	<b>Upper</b>	<b>Upper</b>
Limits on fixed interest rates based on net debt	100%	100%	100%
Limits on variable interest rates based on net debt	70%	70%	70%
<b>Limits on fixed interest rates:</b>			
• Debt only	100%	100%	100%
• Investments only	80%	80%	80%
<b>Limits on variable interest rates</b>			
• Debt only	70%	70%	70%
• Investments only	80%	80%	80%



<b>Maturity structure of fixed interest rate borrowing 2016/17</b>		
	<b>Lower</b>	<b>Upper</b>
<b>Under 12 months</b>	0%	20%
<b>12 months to 2 years</b>	0%	40%
<b>2 years to 5 years</b>	0%	70%
<b>5 years to 10 years</b>	0%	70%
<b>10 years and above</b>	0%	100%

<b>Maturity structure of variable interest rate borrowing 2016/17</b>		
	<b>Lower</b>	<b>Upper</b>
<b>Under 12 months</b>	0%	40%
<b>12 months to 2 years</b>	0%	40%
<b>2 years to 5 years</b>	0%	70%
<b>5 years to 10 years</b>	0%	70%
<b>10 years and above</b>	0%	80%

## 5. Treasury Indicators: Limits to Borrowing Activity

**5.1 The Operational Boundary** - this is the limit beyond which external borrowing is not normally expected to exceed. In most cases, this would be a similar figure to the CFR, but may be lower or higher depending on the levels of actual borrowing.

<b>Operational boundary £'000s</b>	<b>2015/16 Estimate</b>	<b>2016/17 Estimate</b>	<b>2017/18 Estimate</b>	<b>2018/19 Estimate</b>
<b>Borrowing</b>	650	693	710	714
<b>Long term liabilities</b>	55	52	49	48
<b>Total</b>	<b>705</b>	<b>745</b>	<b>760</b>	<b>761</b>

**5.2 The Authorised Limit for external borrowing** – this represents a control on the maximum level of borrowing, with a limit set, beyond which external borrowing is prohibited. This limit must be set or revised by the full Council. The limit set includes a margin for short-term borrowing and also to borrow the remaining £61m available from the EIB.

It reflects the level of external borrowing which, while not desired, could be afforded in the short term, but is not sustainable in the longer term. It is also a statutory limit determined under section 3 (1) of the Local Government Act 2003. The Government retains an option to control either the total of all councils' plans, or those of a specific council, although this power has not yet been exercised. The Council is asked to approve the following Authorised Limit:

<b>Authorised Limit £'000s</b>	<b>2015/16 Estimate</b>	<b>2016/17 Estimate</b>	<b>2017/18 Estimate</b>	<b>2018/19 Estimate</b>
<b>Borrowing</b>	760	803	820	824
<b>Long term liabilities</b>	55	52	49	48
<b>Total</b>	<b>815</b>	<b>855</b>	<b>870</b>	<b>871</b>

**5.3 HRA CFR Cap** - the Council is also limited to a maximum HRA CFR through the HRA self financing regime. This limit is currently:

<b>HRA Debt Cap £'000s</b>	<b>2015/16 Estimate</b>	<b>2016/17 Estimate</b>	<b>2017/18 Estimate</b>	<b>2018/19 Estimate</b>
<b>Total</b>	277,649	291,599*	291,599*	291,599*

\* The HRA debt cap is currently set at £277.649m, however the Council has recently been given approval from the Department for Communities & Local Government, to exceed this by £3.2m and by a further £10.75m in 2016/17, making the new total cap £291,599 onwards from 2016/17.

### Minimum Revenue Provision Policy Statement

- 1.1 The Council is required to pay off an element of the accumulated General Fund capital spend each year (the Capital Financing Requirement - CFR) through a revenue charge (the Minimum Revenue Provision - MRP). The Council is also allowed to undertake additional voluntary payments if required (voluntary revenue provision - VRP).
- 1.2 CLG regulations have been issued which require the full Council to approve an **MRP Statement** in advance of each year. A variety of options are provided to councils, so long as there is a prudent provision. The Council is recommended to approve the following MRP Statement:
- 1.2.1 For capital expenditure incurred before 1 April 2008 or which in the future will be Supported Capital Expenditure, the MRP policy will be:
- **Existing practice** - MRP will follow the existing practice outlined in former CLG regulations (option 1).
- These options provide for an approximate 4% reduction in the borrowing need (CFR) each year.
- 1.2.2 From 1 April 2008 for all unsupported borrowing (including PFI and finance leases) the MRP policy will be:
- **Asset life method** – MRP will be based on the estimated life of the assets, in accordance with the proposed regulations (this option must be applied for any expenditure capitalised under a Capitalisation Direction) (option 3).
- 1.3 This option provides for a reduction in borrowing in line with the life of the asset to which the borrowing related.
- 1.4 There is no requirement on the HRA to make a minimum revenue provision but there is a requirement for a charge for depreciation to be made.
- 1.5 Repayments included in annual PFI or finance leases are applied as MRP.
- 1.6 The MRP methodologies provided above are currently being reviewed by officers. Any change to the MRP methodology will be brought for agreement by Members and will be effective from 1 April 2015.

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## **Scheme of Delegation and Section 151 Officer Responsibilities**

### **Treasury management scheme of delegation**

#### **(i) Full board/council**

- receiving and reviewing reports on treasury management policies, practices and activities;
- approval of annual strategy.

#### **(ii) Boards/committees/council/responsible body**

- approval of/amendments to the organisation's adopted clauses, treasury management policy statement and treasury management practices;
- budget consideration and approval;
- approval of the division of responsibilities;
- receiving and reviewing regular monitoring reports and acting on recommendations;
- approving the selection of external service providers and agreeing terms of appointment.

#### **(iii) Body/person(s) with responsibility for scrutiny**

- reviewing the treasury management policy and procedures and making recommendations to the responsible body.

### **The treasury management role of the section 151 officer**

#### **The S151 (responsible) officer**

- recommending clauses, treasury management policy/practices for approval, reviewing the same regularly, and monitoring compliance;
- submitting regular treasury management policy reports;
- submitting budgets and budget variations;
- receiving and reviewing management information reports;
- reviewing the performance of the treasury management function;
- ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function;
- ensuring the adequacy of internal audit, and liaising with external audit; and
- recommending the appointment of external service providers.

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**ASSEMBLY****24 February 2016**

<b>Title:</b> Pay Policy Statement 2016/17	
<b>Report of the Cabinet Member for Finance and Central Services</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
<b>Report Author:</b> Claire Symonds, Strategic Director – Customer, Commercial and Service Delivery	<b>Contact Details:</b> Tel: 020 8227 5513 E-mail: Claire.symonds@lbbd.gov.uk
<b>Accountable Officer:</b> Chris Naylor, Chief Executive	
<p><b>Summary:</b></p> <p>Under the terms of the Localism Act 2011 the Council must agree before the start of the new financial year a pay policy statement covering chief officer posts and above. The Act sets out matters which must be covered under the policy.</p> <p>The Pay Policy Statement for 2016/17 is included at Appendix A. It sets out the expected position at 1 April 2016.</p> <p>The Cabinet considered this report at its meeting on 15 February 2016 and, in recommending it to the Assembly, also agreed that an increased Local Living Wage rate of £9.40 per hour (from £9.20) be applied with effect from 1 January 2016. That decision is reflected at paragraph 3.3 of the Pay Policy Statement.</p>	
<p><b>Recommendation(s)</b></p> <p>The Assembly is recommended to approve the Pay Policy Statement for the London Borough of Barking and Dagenham for 2016/17 as set out at Appendix A to the report, for publication on the Council's website with effect from 1 April 2016.</p>	
<p><b>Reason(s)</b></p> <p>Under the terms of the Localism Act 2011 the Assembly must agree a pay policy statement in advance of the start of each financial year.</p>	

**1. Introduction**

- 1.1 Section 38 (1) of the Localism Act 2011 requires English and Welsh local authorities to produce a pay policy statement for senior staff (chief officers) to be agreed by all Councillors at an Assembly meeting, before the beginning of each financial year.

- 1.2 The Council produced its first pay policy statement for the 2012/13 financial year in accordance with the Localism Act 2011. The definition of “chief officers” covers the Chief Executive, Strategic and Corporate Directors and Divisional Directors. The matters that must be included in the pay policy statement are as follows:
- The level and elements of remuneration for each chief officer.
  - The remuneration of its lowest-paid employees (together with its definition of “lowest-paid employees” and its reasons for adopting that definition).
  - The relationship between the remuneration of its chief officers and other officers.
  - Other specific aspects of chief officers’ remuneration: remuneration on recruitment, increases and additions to remuneration, use of performance-related pay and bonuses, termination payments, and transparency.
- 1.3 The Localism Act defines remuneration widely, to include not just pay but also charges, fees, allowances, benefits in kind, increases in/enhancements of pension entitlements, and termination payments.
- 1.4 The pay policy statement:
- Must be approved formally by the full Council (Assembly);
  - Must be approved by the end of March each year;
  - Can be amended in-year;
  - Must be published on the Council’s website (and in any other way the Council chooses);
  - Must be complied with when the Council sets the terms and conditions for a chief officer.

## **2. Context for the Pay Policy Statement**

- 2.1 The borough faces enormous challenges and opportunities over the next five years as a consequence of the squeeze on public finances and the aspirations of this Council. The Council needs to change markedly if it is to tackle the challenges and grasp those opportunities. In May 2015, the Chief Executive presented a report to the JNC Salary and Conditions Panel outlining proposals to change the top team structure and introduce a number of new strategic director posts (and a new Divisional Director role focused on change and performance). This was on the basis that there was a need for greater capacity to support the organisation and Members if it was to deliver change at the speed needed.
- 2.2 At the same time the relationship with Thurrock evolved and a number of sharing arrangements have now ceased in recognition of the scale of the challenge facing Barking and Dagenham.
- 2.3 During the course of the last 12 months new appointments have been made and the new management team is in place. To meet agreed savings targets on senior management costs, some posts in the structure have been deleted. The Pay Policy Statement sets out the management structure and details of the Chief Officer posts within it. This is based on the structure that is expected to be in place at 1<sup>st</sup> April 2016.



- 2.4 The impact of the new structure and the additional capacity provided has already been felt. Examples of the work that the leadership team has driven forward are as follows:
- The Growth Commission has published its findings;
  - Confirmation of the funding for the London Borough of Barking & Dagenham, Havering and Redbridge pilot, to develop an Accountable Care Organisation;
  - Significant progress on the Housing Transformation Programme;
  - The development of options for the future of the Council as part of the Ambition 2020 Programme.
- 2.5 In order to be successful going forward, the Council needs to attract and retain talented people to deliver the innovative solutions needed. There must be a balance between the need to offer a competitive package which is attractive, with the need to control costs. The management structure will come under scrutiny year on year, as the Council needs to adapt and implement its plans for future years.
- 2.6 It should also be recognised that 2016/17 is going to be one of significant change for the Council requiring transformational leadership at a senior level.

### **3. Consultation**

- 3.1 The Pay Policy Statement for 2016/17 was considered and endorsed by the Cabinet at its meeting on 15 February 2016.

### **4. Financial Issues**

Implications completed by: Kathy Freeman, Divisional Director of Finance

- 4.1 There are no additional budget pressures caused by the agreement of the Pay Policy Statement, as this reflects the current position on pay.
- 4.2 The additional cost of the Local Living Wage increase to £9.40 per hour (from £9.20) is £50,600 and shall be met from existing budgets.

### **5. Legal Issues**

Implications completed by: Chris Pickering, Senior Employment Lawyer

- 5.1 This report outlines the Council's obligations with regards to senior officer pay and in particular in relation to the information to be provided pursuant to section 38 of the Localism Act.

### **6. Other Implications**

- 6.1 **Risk Management** – There are no risks attached to this statement as it describes the current position.
- 6.2 **Contractual Issues** – This statement makes no changes to employees' contractual position.

- 6.3 **Staffing Issues** – The staffing issues are fully explored within the main body of the report.
- 6.4 **Equalities Issues** – The Council’s approach to pay is based on the use of established job evaluation processes to determine the salary for individual roles, eliminating the potential for any bias in the process.
- 6.5 **Service Issues** – The ability to deliver effective services is dependent on having the right staff at different levels. The Council must have an approach to pay that enables it to recruit and retain the right people and also to motivate them to perform. The pay policy seeks to support that aim.

**Public Background Papers Used in the Preparation of the Report: None**

**List of appendices:**

**Appendix A** – Pay Policy Statement 2016/17

## LONDON BOROUGH OF BARKING AND DAGENHAM

### PAY POLICY STATEMENT 2016/17

#### **1. Introduction – Requirement for Council Pay Policy Statement**

- 1.1 Section 38 (1) of the Localism Act 2011 requires English and Welsh local authorities to produce a pay policy statement to be agreed by members before the beginning of each financial year. The Act does not apply to local authority schools. This document meets the requirements of the Act for the London Borough of Barking and Dagenham. This Pay Policy Statement presents the expected position at 1 April 2016.
- 1.2 The provisions of the “Act” require that councils are more open about their own local policies and how their local decisions are made. The Code of Recommended Practice for Local Authorities on Data Transparency enshrines the principles of transparency and asks councils to follow three principles when publishing data they hold: responding to public demand, releasing data in open formats available for re-use, and, releasing data in a timely way. This includes data on senior salaries and the structure of the workforce.

#### **2. Organisational Context**

- 2.1 The Council recognises that if it is to serve its communities well and deliver the agreed vision and objectives of the Council, it needs to be able to attract and retain talented people at all levels of the organisation. The Council continues to face very significant budget and demand challenges. We have put in place a programme of activities to address the challenges we face called “Ambition 2020”, which will fundamentally review what this Council does, how services are structured and the way that it operates. Going forward this will have a considerable impact on our staff and we are working to understand what this will be, engaging with our staff and their representatives as we do so.
- 2.2 What we do know is that it is even more important to be in a position to recruit and retain talented people who will enable this Council to be successful. We have strengthened our senior management team in a number of areas, in order to give us capacity to take forward Ambition 2020 and the associated “Growth Commission” and this is reflected in this Pay Policy Statement. The number of senior posts has increased, but this is on a temporary basis and the structure will be reviewed again once Ambition 2020 is well-advanced to ensure that we have an affordable senior structure for the future and one capable of delivering within the new Council structure.

#### **3. Pay and Reward Principles**

- 3.1 Our approach to pay and reward continues to be based on the following principles:

- Pay levels are affordable for the Council, at a time when we are making some very difficult decisions about spending on services to the community;
- We can demonstrate fairness and equity in what we pay people at different levels and in different parts of the Council; and
- Pay is set at levels which enable us to recruit and retain the quality of staff we need to help us achieve our objectives at a time of financial hardship.

3.2 Pay levels are determined through a job evaluation system. For staff at PO6 and below we generally use the Greater London Provincial Council job evaluation system. For posts at PO7 and above we use the HAY job evaluation system. Pay point 49 (£44,766) is at the top of PO6 and bottom of PO7. Each system assesses the relative “size” of the role against a range of criteria, relating to its complexity, the number of resources managed and the knowledge required to undertake the role.

3.3 Pay rates are generally set against the national pay spine agreed by the National Joint Council, although there are local pay points at the top of the LBBD pay scale. The Council has committed to pay no less than the “London Living Wage” and ensure that none of its own staff, or agency workers working with the Council, are paid less than £9.40 per hour from 1 January 2016.

#### **4. Defining “Chief Officers”**

4.1 At the start of the 2016/17 financial year, the Council expects to have within its structure the following Chief Officer posts:

- Chief Executive (and Head of Paid Service)
- Strategic Director for Service Development and Integration
- Strategic Director for Customer, Commercial and Service Delivery
- Strategic Director for Finance and Investment (and Section 151 Officer)
- Strategic Director for Growth and Homes
- Corporate Director of Children’s Services
- Director of Law and Governance (and Monitoring Officer) (0.7fte)
- Lead Divisional Director for Adults and Community Services
- Director of Public Health
- Divisional Director of Finance
- Divisional Director of Strategy and Programmes
- Divisional Director of Regeneration
- Divisional Director of Housing Strategy & Advice
- Divisional Director of Housing Management
- Divisional Director of Strategic Commissioning and Safeguarding
- Divisional Director of Complex Needs and Social Care
- Divisional Director of Education, Youth and Childcare
- Divisional Director of Culture and Sport
- Divisional Director of Adult Social Care

## 5. Accountability for Chief Officers Pay

5.1 The pay arrangements for chief officers are overseen by a Panel (called the JNC Salaries and Conditions Panel) appointed by the Council's Assembly.

5.2 The Council's constitution sets out the responsibilities and composition of the Panel and states:

**JNC Salaries and Conditions Panel** - consisting of the Leader (who shall be Chair), the Deputy Leader(s) of the Council, the relevant Portfolio Holder(s) and two non-Cabinet councillors (selected by the Chief Executive, in consultation with the Leader, from a pool of four non-Cabinet councillors appointed by the Assembly), to consider and make final decisions in relation to:

- (a) salaries and conditions for JNC officers (including the Chief Executive);
- (b) the grading of any new JNC posts in line with Council policy; and
- (c) senior management (JNC) structures / reorganisations.

## 6. Current Pay Policy and Base Pay Rates

### 6.1 Setting Salary Levels

6.1.1 Chief Officer roles are evaluated using the HAY job evaluation system. There is a commitment to review salary levels about every three years. In undertaking reviews, account is taken of the market, particularly the market in London, to ensure we can compete successfully for the talent we need to lead and manage in the current challenging environment. The salary benchmarking information we have comes from the LGA ePayCheck survey. The latest information we have is from 2014/15. There was a 91% response rate to this survey among London Boroughs. The median rates of pay for roles in London, based on the information from the survey, were as follows:

CX	- £175,313
Exec Director	- £133,725
Director	- £102,977
Assistant Director	- £89,869 (pre 1% pay award in April 2015, for roles below £100k)

6.1.2 This data shows that LBBDD pays at or below the median pay rates for senior roles. This also reflects the advice given by recruitment consultants in the recent exercises undertaken to recruit to the roles of Chief Executive and Strategic Director.

6.1.3 The Council is contractually obliged to apply nationally agreed pay awards for Chief Officer grades.

### 6.2 Chief Executive

6.2.1 The salary for the Chief Executive, agreed at appointment in November 2014, is £165,000.

### 6.3 Chief Officer Pay Range

6.3.1 The Chief Officer pay range was last reviewed and amended in 2013. There are no proposals to review this pay range in 2016/17. The current pay range is as follows:

CO1	£80,314
CO2	£91,558
CO3	£101,196
CO4	£108,661
CO5	£120,000
CO6	£131,757

6.3.2 It is appropriate for there to be some differentiation in pay levels at Chief Officer level because of the differing amounts of risk and responsibility being carried at that level.

6.3.3 The table below sets out the salaries of the chief officer posts referred to in paragraph 4.1 above:

Position	Grade of Post	Salary cost to LBBD (excl. on-costs)
Chief Executive (Head of Paid Service)	Individual spot salary	£165,000
Strategic Directors and Corporate Director	CO6	£131,757
Divisional Directors	CO2 – CO4	£91,558 - £108,661
Director of Public Health	Individual spot salary	£90,000

### 7. Contingent Pay

7.1 The Council pays its Chief Officers a spot salary. There is no element of performance pay, nor are any bonuses paid. No overtime is paid to Chief Officers. There are no lease car arrangements.

7.2 The Divisional Director, Complex Needs and Social Care receives a market supplement of £10,000 to recognise the challenges of recruiting in this market.

### 8. Pensions

8.1 All Council employees are eligible to join the Local Government Pension Scheme. The Council does not enhance pensionable service for its employees either at the recruitment stage or on leaving the service, except in certain cases of retirement on grounds of permanent ill-health where the strict guidelines specified within the pension regulations are followed.

### 9. Other Terms and Conditions

9.1 Employment conditions and any subsequent amendments are incorporated into employees' contracts of employment. Chief Officer contracts state:

“Where adopted by the Council for your employment group and unless otherwise indicated in this statement, your terms and conditions of employment are as set out in the NJC (National Joint Council) for Local Government Services otherwise called the “Green Book”. These terms and conditions may be supplemented by agreements reached collectively at the Greater London Provincial Council and at the Council’s Employee Joint Consultative Committee.”

9.2 The Council’s employment policies and procedures and terms and conditions are reviewed on a regular basis in the light of service delivery needs and any changes in legislation.

## **10. Election Expenses**

10.1 The fees paid to Council employees for undertaking election duties vary according to the type of election they participate in and the nature of the duties and responsibilities they undertake. All election fees paid are additional to Council salary and are subject to normal deductions of tax.

10.2 Returning Officer duties (and those of the Deputy Returning Officer) are contractual requirements but fees paid to them for national elections / referendums are paid in accordance with the appropriate Statutory Fees and Charges Order.

## **11. Termination / Severance Payments**

11.1 Employees who leave the Council, including the Chief Executive and Chief Officers, are not entitled to receive any payments from the Council, except in the case of redundancy or retirement as indicated below.

11.2 The Government is introducing, through the Small Business, Enterprise and Employment Act 2015, a £95,000 cap on “exit payments”. Regulations will be inserted by the Enterprise Bill 2015-16 and a date for implementation is expected in 2016. This will limit the amount a public sector worker could be paid for losing their job to £95,000. This will apply to all staff but predominately high earners and will cover:

- Redundancy payments
- Payments on voluntary exits
- Pension strain costs
- Severance or ex-gratia payments
- Payment for outstanding entitlement
- Compensation under the terms of a contract
- Pay in lieu of notice
- Any other payments made as a result of loss of employment.

11.3 A different set of regulations, The Repayment of Public Sector Exit Payment Regulations 2015, will come into force on 1 April 2016 which will set out the liability to repay any exit payment if the exit payee returns to the same ‘sub-sector’ within 12 months of receiving the payment. If they return to the same sub-sector within 28 days the whole amount is due, thereafter tapering arrangements become operational. The Assembly may exercise a waiver to exclude such a repayment. If a waiver is issued it must be published along with the reasons for doing so in the

preceding twelve months at the beginning of a financial year or published in the annual accounts. Guidance is awaited on the exercise of a waiver. If reclaimed an exit repayment is made to the 'old' employer and the sum passed through to the Treasury.

## **12. Retirement**

- 12.1 Employees who contribute to the Local Government Pension Scheme who elect to retire at age 60 or over or who are retired on redundancy or efficiency grounds over age 55 are entitled to receive immediate payment of their pension benefits in accordance with the Scheme. Early retirement, with immediate payment of pension benefits, is also possible under the Pension Scheme with the permission of the Council in specified circumstances from age 55 onwards and on grounds of permanent ill-health at any age.
- 12.2 The Council will consider applications for flexible retirement from employees aged 55 or over on their individual merits and in the light of service delivery needs.

## **13. Redundancy**

- 13.1 Employees who are made redundant are entitled to receive statutory redundancy pay as set out in legislation calculated on their actual salary. The standard London Borough of Barking and Dagenham redundancy scheme applies to all officers. The scheme was amended as part of the savings proposals for the 2016/17 financial year. At present, a redundancy multiplier applies and a maximum of 45 weeks of actual pay is payable depending on length of service. From 1 October 2016, there will be no multiplier and the maximum will be 30 weeks.
- 13.2 A voluntary redundancy scheme was introduced on 1 February which will remain open until 30 May 2016.

## **14. Settlement Agreements**

- 14.1 Where an employee leaves the Council's service in circumstances which are, or would be likely to, give rise to an action seeking redress through the Courts from the Council about the nature of the employee's departure from the Council's employment, the Council may settle such claims by way of a settlement agreement where it is in the Council's interests to do so. The amount to be paid in any such instance may include an amount of compensation, which is appropriate in all the circumstances of the individual case. Legal advice will be sought in all cases. Should such a matter involve the departure of a Strategic Director or the Chief Executive it will only be agreed following receipt of external legal advice that it would be lawful and reasonable to do so.

## **15. Fairness and Equality**

### **15.1 Pay Ratios**

- 15.2 It was agreed that as of 1 January 2013, no permanent member of the Council's staff should be paid less than £9 per hour (excluding those on apprenticeship schemes). This supports the Council's ambition to raise average local household



incomes, and reflects its commitment to pay fairness. The Council has also agreed that this should apply to all agency staff working on Council assignments. This minimum rate increased to £9.40 per hour (equivalent to an annual salary of £17,154) with effect from 1 January 2016.

- 15.3 Based on this figure, the Council's pay multiple - the ratio between the highest paid employee, the Chief Executive and lowest paid employee - is 1:9.6 (1:9.8 in 2015/16).
- 15.4 The ratio between the Chief Executive's salary level and the median earnings figure for all employees in the Council is 1:8:6. The median earnings figure is for all employees at 1 April 2016 was £19,182 pa.
- 15.5 Across London the average ratio between the highest and median salaries is 1 to 7, based on a Chief Executive's average of £181,500 (taken from London Councils 2015 Senior Staff Pay Data). The variance in LBBB is attributable to the retention of in-house services such as catering and cleaning.

## **16. Any Additional Reward Arrangements**

- 16.1 There are none in place.

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## ASSEMBLY

24 February 2016

<b>Title:</b> Council Constitution - Amendments to the Contract Rules to Comply with Legislation and Other Minor Changes	
<b>Report of the Chief Executive</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> No
<b>Report Authors:</b> Eldred Taylor-Camara, Legal Group Manager  Alan Dawson, Democratic Services Manager	<b>Contact Details:</b> Tel: 020 8227 3344 Email: eldred.taylor-camara@lbbd.gov.uk Tel: 020 8227 2348 Email: alan.dawson@lbbd.gov.uk
<b>Accountable Divisional Director:</b> Fiona Taylor, Director of Law and Governance and Monitoring Officer	
<b>Accountable Director:</b> Chris Naylor, Chief Executive	
<b>Summary:</b>	
<p>This report advises on a number of proposed updates to the Council's Constitution. The Contract Rules govern and control the procurement of goods, services and works by the Council and sit alongside the Financial Rules. These changes are required due to changes in Public Procurement law and therefore require the Constitution to be updated in order to comply with current legislation.</p> <p>Other key updates include:</p> <ul style="list-style-type: none"> <li>• the revision of the Officer Scheme of Delegation to reflect the new senior management structure;</li> <li>• the inclusion of provisions and rules for webcasting of Council meetings, which is due to begin later this year;</li> <li>• proposed revisions to the deadline for Questions With Notice and the tightening of arrangements for the submission of Questions With Notice and Motions With Notice;</li> <li>• the inclusion of wording to reflect the requirements of the Openness of Local Government Bodies Regulations 2014 in respect of the publication of executive decisions taken by officers under delegated authority;</li> <li>• the inclusion of new requirements relating to Members' Disclosure and Barring Service checks.</li> </ul>	

## **Recommendation(s)**

The Assembly is recommended to:

- (i) Note and approve the proposed revisions to the Contract Rules, as detailed in Appendix A to this report;
- (ii) Approve the delegation of responsibility for appointing Parent Governor representatives from the Assembly to the Corporate Director of Children's Services and note the other changes to the Officer Scheme of Delegation which reflect the current senior management structure, as detailed in Appendix C to the report;
- (iii) Approve the changes to the Protocol on Filming, Webcasting, Photography and the Use of Social Media at Council Meetings, as detailed in Appendix D to the report;
- (iv) Agree that the deadline for the submission of Questions With Notice be brought forward from midday Friday to midday Wednesday of the week before an Assembly meeting;
- (v) Agree that the processes for submitting Questions With Notice and Motions With Notice at the Assembly be amended and that, in future, any questions and/or motions are submitted either directly by the proposing Councillor or via the Group Secretary;
- (vi) Note the wording inserted in Part 2, Chapter 16 which reflects the Council's adherence to The Openness of Local Government Bodies Regulations 2014 in respect of the publication of details of all executive decisions taken by officers;
- (vii) Agree that Councillors be required to be subject to a Disclosure and Barring Service (DBS) check in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and Protection of Freedoms Act 2012 and note the inclusion of wording to that effect in the Councillors' Code of Conduct; and
- (viii) Note that the Monitoring Officer shall make all necessary procedural and/or incidental amendments to the Contract Rules and the Constitution in order to bring the revised Contract Rules into effect and ensure that they dovetail with the rest of the Constitution.

## **Reason(s)**

This report sets out proposed amendments to the Council's Contract and other Rules to:

- Ensure compliance with European and National legislation governing public sector procurement.
- Ensure a regulatory framework that reflects current procurement practice and changes in local government policy.
- Maximise the opportunities to assist as many local businesses as possible to obtain Council contracts.

## **1. Introduction and Background**

- 1.1 A new Council Constitution was adopted by the Assembly at its meeting on 25 November 2014 (Minute 27 refers) and is kept under continual review by officers within the Law and Governance division.
- 1.2 Paragraph 2 of Part 7 of the Constitution establishes the rules for making amendments to the Constitution. In summary, the Assembly is responsible for approving all changes except for the following which may be implemented by the Monitoring Officer:
- changes to give effect to any decisions of the Council;
  - changes in the law;
  - minor amendments such as to correct errors; and
  - to ensure that the Constitution is maintained up-to-date.
- 1.3 The changes covered in this report are a mix of those requiring the Assembly's approval and those which may be implemented by the Monitoring Officer under that delegated authority. For transparency and clarity all changes are included in this report and its appendices.
- 1.4 The Contract Rules ("Rules") are intended to promote good purchasing practice and set out a framework for the procurement of goods, works and services in open and transparent processes, with a view to achieving best value, providing appropriate governance, ensuring public accountability and also deterring corruption.
- 1.5 In 2014, a new EU Directive was introduced throughout the EU which made significant changes to the existing law on procurement of public contracts within the EU. The Directive was transposed into UK law in February 2015 by the introduction of the Public Services Contract Regulations 2015 (the "Regulations"). The implementation of the new Regulations has necessitated a review of the Council's Contract Rules to ensure that the Rules are in keeping with the new legislation. Legal Services has undertaken a review of the Council's Contract Rules with a view to:
- i) updating them to take account of recent legislative changes and best practice; and
  - ii) ensuring they reflect changes in approach to procurement, thereby achieving benefits for local economic and social well being; and
  - iii) enhance governance to reduce risk of abuse.
- 1.6 After having prepared a working draft of the Rules, the draft amendments were then submitted to the Council's Procurement Board for review. This ensured that consultation with senior managers and service area stakeholders was conducted to gain their input. Comments and amendments from the Board have been incorporated to produce the final draft.

## **2. Summary of Proposed Changes to the Contract Rules**

- 2.1 Revisions to the Rules reflect recent changes in legislation, case law and guidance from the European Commission and the UK Government. The Public Contract Regulations 2015 have come into force and replace the Public Contract Regulations

2006. The Regulations implement the new EU public sector Procurement Directive 2014/24/EU. .

2.2 The review of Contract Standing Orders also provides the opportunity to improve clarity and readability and provide for additional flexibility whilst maintaining integrity of the procurement process. The revised Rules (with proposed amendments tracked) are set out in Appendix A.

2.3 A few key new introductions and changes to the Rules need special mention here:

#### 2.3.1 **Light Touch regime**

The Regulations have removed a distinction drawn under previous legislation between certain services which were subject to the full effect of the legislation (previously referred to as 'Part A services') and services which, when tendered, were subject to a limited sub-set of the applicable rules (previously referred to as 'Part B services'). Under the new Regulations, procurement of contracts above a specified threshold for certain identified services such as social, educational and health services will be subject to a "Light-Touch" regime. There is an OJEU advertising requirement and other specific obligations for this new light-touch regime, but a much higher threshold has been agreed (EUR 750,000/£589,148). The Rules have been amended to reflect these changes.

#### 2.3.2 **Pre-Market engagement**

The Regulations require the Council to devote greater attention to pre-procurement activity (often referred to as pre-market engagement) with a view to achieving better outcomes from its procurements. The revised Rules reflect this obligation.

#### 2.3.3 **New procurement procedures**

The Regulations introduce two new procurement processes referred to as (1) the Competitive Procedure with Negotiation and (2) the Innovation Partnership. The Open, Restricted and Competitive Dialogue procedures remain, resulting in a total of five available procedures. The Rules are updated to reflect the availability of the new procedures.

#### 2.3.4 **Mandatory and Discretionary powers of exclusion**

The Council will now be subject to revised mandatory and discretionary obligations to exclude bidders in specified circumstances. For example, it is now mandatory for the Council to exclude from any procurement process any bidder convicted of offences relating to fraud, money laundering, tax evasion, child labour or terrorism. The Council can also exercise its discretion to exclude bidders who are guilty of professional misconduct or who have defaulted on other public service contracts.

These provisions entitle the Council to exclude any supplier which has for example committed a breach of the legislation that prohibits union member blacklisting unless it can demonstrate that it has taken appropriate remedial steps.

### 2.3.5 Contract amendments

The circumstances in which the Council is permitted to vary its contracts without triggering a new procurement process have been defined. For example, the Council is permitted to vary a contract where the need for a modification has arisen due to circumstances which a diligent authority would not have envisaged when it let the contract and provided that the modification does not alter the nature of the contract and any increase in cost does not exceed 50% of the original contract value. It can also make modifications where the contract specifically envisages and expressly provides for amendment or where the modifications are not “substantial” (as defined).

### 2.3.6 SME participation

New measures have been introduced to facilitate the participation of SMEs by making it less costly for SME bidders to participate in low to medium value procurement exercises. These include:

- The requirement to publish on the Government’s contracts web portal “Contracts Finder” (a publicly accessible online resource detailing opportunities to bid for public sector contracts), details of any contract which the Council advertises where the value of the contract is £25,000 or more (net of VAT). The Rules now reflect this requirement and describe the steps officers will need to take in order to ensure compliance.
- Procurement processes with multiple stages (such as the Restricted Procedure which requires bidders to satisfy specified pre-qualification criteria) are no longer permitted for below-threshold contracts. The requirement now is to invite tenders from all contractors and suppliers that express an interest in a contract opportunity.
- The Council is now subject to a duty to justify any decision not to divide its contracts into lots (this provision seeks to enhance access for small and medium sized enterprise to public sector contracts);
- The requirement to insert provisions in all public contracts to ensure prompt payment through the supply chain.

2.3.7 The Regulations make provision for the following other amendments which, whilst of less significance, needed to be accounted for in the Rules:

- The Council is subject to a new duty to prevent conflicts of interest in connection with its procurement activity;
- The requirement to have all contract documentation finalised and available at the date of public advertisement of the contract opportunity.
- The Council will be subject to new record-keeping obligations in connection with certain procurement processes.

2.4 Further details on the above appear in Appendix B and the relevant tracked amendments are set out in Appendix A.

### **3. Summary of Other Proposed Minor Changes to the Constitution**

3.1 An explanation of the rationale for the main changes is set out below.

#### **Officer Scheme of Delegation (Part 3, Chapter 1 of the Constitution)**

3.2 Since May 2015 there have been a number of changes to the Council's senior management structure and to job titles which need to be reflected in the Scheme of Delegation and throughout the Constitution. With the exception of one new delegation to the Director of Children's Services which is referred to in more detail in paragraph 3.4 below, the changes to the Scheme of Delegation are merely to reflect the reallocation of existing delegations. A marked-up copy of the Officer Scheme of Delegation reflecting the changes to responsibilities is attached at Appendix C.

3.3 The changes to job titles and roles have been applied to all other relevant sections of the Constitution.

3.4 During the recent appointment process for the Secondary School Parent Governor representative on the Children's Services Select Committee, it was noted that the Parent Governor Representatives (England) Regulations 2001 stipulate that appointments must be made within one month of the announcement of the result of the election to the position. As this is not always practical within the meeting schedule of the Assembly, which is presently responsible for confirming such appointments, it is proposed that the Council's responsibilities under the Parent Governor Representatives (England) Regulations 2001 be delegated to the Corporate Director of Children's Services, who can deal with the appointments without delay and ensure full compliance with the regulations.

#### **Protocol on Filming etc. at Council Meetings (Part 5, Chapter 6)**

3.5 The current protocol already includes arrangements for filming at Council meetings, which were introduced in response to the Openness of Local Government Bodies Regulations 2014. Following the installation of webcasting facilities to the Council Chamber and Committee Room 2 at the Town Hall, Barking, the protocol has been updated to strengthen the rules and clarify arrangements for archiving of webcasts.

3.6 A marked-up copy of the proposed revisions to Part 5, Chapter 6 is set out at Appendix D.

#### **Questions With Notice Arrangements (Part 2, Chapter 4)**

3.7 Prior to the adoption of the new Constitution in November 2014, there were separate Leader's Questions and General Questions processes which had different deadlines.

3.8 Under the new Constitution, the processes were merged and a new deadline established of noon on the Friday of the week before the meeting. This was chosen as it was the median point between the two previous deadlines.

3.9 The large number of questions that have been received for the last three Assembly meetings – 21 for 15 July 2015, 20 for 23 September 2015 and 23 for 2 December



2015 – has highlighted the difficulties in managing the administrative arrangements over a relatively short timescale and particularly with the deadline being at noon on a Friday.

- 3.10 Under the current arrangements once the deadline has passed the Director of Law and Governance carries out an assessment on behalf of the Chief Executive of all of the questions received to ensure that they meet the criteria as laid out in the Constitution. This will often involve having to go back to Councillors that have submitted questions to clarify aspects of the wording in order to be accepted. The process of validating questions can be time-consuming and often extends beyond the end of the normal working day. It is only when that process has been completed and the Chief Executive has signed off the final list of accepted questions that the final schedule of questions can be circulated. This has meant that the Members that are responsible for answering the questions have often been unable to discuss the issues raised with the relevant officers and compile their response until the new working week.
- 3.11 It is proposed, therefore, that the Questions With Notice deadline be brought forward to noon on the Wednesday of the week before the meeting (as was the case under the former Leader's Questions procedure).
- 3.12 A further proposed change relates to the procedure for submitting questions. Any Councillor may submit a maximum of two questions but that rule can be undermined as there are currently no restrictions on a Councillor submitting multiple questions but allocating them out to different colleagues to ask on that individual's behalf. It is acknowledged, however, that there will always be occasions where Councillors may be unable to submit a question(s) personally due to IT problems or commitments that prevent them from doing so.
- 3.13 To overcome both issues, it is proposed that the procedure be revised so that a Councillor submitting a question must do so either directly him/herself or via the Group Secretary.
- 3.14 The relevant extract from Part 2, Chapter 4 is set out at Appendix E showing the proposed revisions.

#### **Motions With Notice Arrangements (Part 2, Chapter 4)**

- 3.15 Along similar lines to the suggested change referred to in paragraphs 3.12 and 3.13 above, it is proposed that the procedure for submitting motions is also restricted to being either directly from the Councillor or via the Group Secretary. This change will have very little impact for members of the Labour Group as there are already established internal procedures within the Group for submitting motions but the amendment is nonetheless considered appropriate.

#### **Decision Making and the recording (publishing) of executive decisions by officers (Part 2, Chapter 16)**

- 3.15 The Openness of Local Government Bodies Regulations 2014 introduced a requirement for the 'recording' of executive decisions by officers. For the purposes of these regulations, the term 'recording' means publication on the Council's website. To ensure compliance with the regulations but to reduce the

administrative burden that these requirements could place on the Council, the “key decision” threshold of £200,000 has been applied. Applying the key decisions threshold also provides a much stronger platform for ensuring compliance with the regulations, as the only decisions that should fall within the requirements are:

- The approval of procurement processes and the award of contracts with a value between £200,000 and £500,000, the latter being the threshold of officer delegation relating to contracts.
- The implementation of a decision involving £200,000+ that has considered by the Cabinet or Health and Wellbeing Board and authority delegated to officers to implement.

3.16 It is proposed, therefore, that the ‘Decision Making’ chapter within the Constitution is updated with the insertion of a new paragraph 3.9 stating the following:

- “The Council shall publish details of all executive decisions taken by officers above the threshold of £200,000, in accordance with The Openness of Local Government Bodies Regulations 2014.”

#### **Disclosure and Barring Service (DBS) Checks for Councillors (Part 5, Chapter 1)**

3.17 In the light of a resolution passed by the Labour Group, a new requirement for councillors to be subject to a DBS check is proposed.

3.18 There will need to be detailed policies drawn up which specify the circumstances under which a councillor will be required to undergo a DBS check and the procedures to be followed in the event of there being a ‘positive’ DBS check. Once those policies have been produced and agreed the level of detail in the Constitution will need to be enhanced but, for the time being, it is proposed to make the following addition at paragraph 5.3 of Part 5, Chapter 1:

“With effect from February 2016, there will be a requirement for Councillors to be subject to a Disclosure and Barring Service (DBS) check in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and the Protection of Freedoms Act 2012. The DBS certificate must be provided to the Monitoring Officer within 28 days of the issue date.”

3.19 Details of all the amendments referred to above as well as other minor changes are included at Appendix F for Members’ information.

#### **4. Options Appraisal**

4.1 The 2015 Regulations have become part of UK law and their provisions are binding on the Council. As such the Council is obliged to comply with the Regulations and there are no options to opt out. The amendments to the Rules are necessary to implement the provisions of the Regulations.

## 5. Consultation

- 5.1 The draft Rules were initially revised and drafted by Legal Services. The draft amendments have since been the subject of consultation and scrutiny by Procurement and other commissioning officers and have been endorsed by the Council's Procurement Board.

## 6. Financial Implications

Implications completed by: Kathy Freeman, Divisional Director of Finance

- 6.1 There are no direct financial implications arising from this report. The contract rules will operate in conjunction with the Council's standing orders and financial regulations.

## 7. Legal Implications

Implications completed by: Eldred Taylor-Camara, Legal Group Manager

- 7.1 The Council may only contract with external parties within the legal framework for local authority procurement. The purchase of goods, services and works by the Council as a public sector body is regulated by the Council's Contract Rules (as required by S135 of the Local Government Act 1972), the general duty to obtain Best Value (Local Government Act 1999), the Public Contracts Regulations 2015, and also the European Treaty principles of transparency, proportionality, non-discrimination of providers in member states and equality of treatment.
- 7.2 Any significant changes to the Constitution other than minor administrative ones or to reflect changes in the law need to be agreed by Assembly. Assembly is therefore being asked to make all necessary amendments to the Contract Rules in order to ensure their provisions reflect changes in the law and best practice and that the Rules dovetail with the rest of the Constitution.
- 7.3 Following approval by Assembly, the Council's Constitution (which reflects and summarises the current Rules) will need to be updated by the Chief Executive/Monitoring Officer to reflect the new Contract Rules.
- 7.4 The Contract Rules review has been conducted by the Council's Legal Services team in conjunction with Corporate Procurement and in consultation with the Procurement Board.
- ## 8. Other Implications
- 8.1 **Risk Management** - Improved and updated Contract Rules reflect current law and best practice. The involvement of the Procurement Board in the procurement process for higher value contracts will help better manage and reduce risks in procurements.
- 8.2 **Contractual Issues** - The Contract Rules prescribe in detail how the Council should procure and contract with its contractors, consultants and suppliers.

- 8.3 **Staffing Issues** - Awareness and understanding of the new Rules and the accountabilities across the Council is important. The launch of the new Contract Rules will be supported by:
- Publication on the intranet;
  - Publication in hard copy format;
  - Training events for officers;
  - Introduction and awareness briefings;
  - Departmental updates as required;
  - Continued dialogue with organisations representing local businesses.
- 8.4 **Customer Impact** - The Rules do not conflict with any Equality and Diversity laws. The proposed new Rules reflect requirements under the EU Regulations which address equality, openness and fairness.
- 8.5 **Property / Asset Issues** - Specific provisions appear in the Council's Constitution prescribing rules for the disposal and acquisition of property.

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

- Council's Constitution (<http://modern.gov.barking-dagenham.gov.uk/ieListMeetings.aspx?CId=626&Year=0&Info=1>).

#### **List of appendices:**

- **Appendix A** - Draft Revised Contract Rules
- **Appendix B** - Table of Revisions to Revised Contract Rules
- **Appendix C** - Revised Officer Scheme of Delegation (Chapter 1)
- **Appendix D** - Draft revised Protocol on Filming, Webcasting etc. at Council Meetings
- **Appendix E** - Draft revised procedures relating to Questions With Notice and Motions With Notice
- **Appendix F** - Full schedule of amendments

Document Reference:	Revised Contract Rules
Version:	Draft
Approved:	By Assembly
Approval Date:	February 2016

**THE LONDON BOROUGH OF BARKING AND DAGENHAM**

**CONTRACT RULES**

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## PART A

### GENERAL APPLICATION OF THE RULES

#### 1. Introduction

- 1.1 These Contract Rules (“Rules”), issued in accordance with section 135 of the 1972 Local Government Act), are the Council’s procedure rules for procuring, (buying, renting, leasing etc) goods, services and works for the Council. They are intended to promote good purchasing practice and public accountability and to deter acts of corruption.
- 1.2 The Rules are part of the Council’s Constitution and therefore Officers have a duty to ensure they have fully understood them prior to commencing any procurement or contracting activity.
- 1.3 These Contract Rules are prepared and are to be read in conjunction with the provisions of the Regulations. Where there is any conflict between the Regulations and these Rules the Regulations shall prevail.

#### 2. Variation and amendment of these Rules

- 2.1 The Chief Executive may, on the advice of the Head of Legal & Democratic Services, make such necessary or incidental amendments to these Rules to effect or implement any changes in law (whether due to legislation, case law or EU Directive), or to correct any inconsistency in, or clarify any interpretation of, these Rules.
- 2.2 If there is any change to the law which affects these Rules then that change must be observed until these Rules can be revised. If these Rules conflict in any way with the law then the law takes precedence.
- 2.3 In accordance with the Council’s Constitution, the Chief Executive has final say on interpretation of these Rules (after taking advice from Corporate Procurement and Legal Services).

#### 3 Scope of the Contract Rules

- 3.1 These Rules apply to all contracts and procurements for goods, works or services entered into by or on behalf of the Council, irrespective of whether the contract is financed from Council funds or from external funds, grant or other funds intended to be spent on procurement by the Council.
- 3.2 These Rules apply to all Officers of the Council and any companies or organisations wholly or partly owned by the Council or otherwise within the

Council's control. They also apply to third party contractors providing goods and services for and on behalf of the Council where the relevant contract between the Council and Contractor provides for the Contractor to comply with these rules.

## 4 Exempt agreements

4.1 These Rules do **NOT** apply to:

4.1.1 *The acquisition or disposal of land or any interest in land*

The Rules do not apply where the Council is acquiring or disposing of any interest in land, whether by freehold, lease, licence etc.

Legal Services and Property Services must be consulted on Development Agreements, as these may be considered a 'works' contract.

4.1.2 *Contracts of employment*

Human Resources should be consulted in respect of such contracts.

4.1.3 *In House Contracts*

4.1.3.1 The tendering and contract award provisions of these rules shall not apply to the award of contracts between the Council and Council owed companies or such other bodies over which the Council has central management provided the following conditions can be met:

- a) the Council exercises control over the entity similar to that which it exercises over its own departments;
- b) more than 80% of activities of the entity relate to the performance of tasks entrusted to it by the Council; and
- c) there is no direct private capital participation in the entity (with the exception of non-controlling and non-blocking forms of private capital participation required by national law in conformity with the EU Treaties).

4.1.3.2 Where Officers are unsure about the application of this rule they must consult with Legal Services.

#### 4.1.4 Subscriptions/ Membership fees

These Rules do not apply where the Council is paying a subscription fee for any professional, political or other such grouping to which the Council or Council Officers belong on a professional or representative basis.

### **5 Partially exempt procurements.**

5.1 The procurements and contracts listed below are exempt from the **full** tendering requirements of Part C of these Rules in that Officers do not need to undertake a full procurement tender exercise. Officers must ensure however that the requirements of Part B to these Rules are adhered to, that the appropriate procurement strategy approval process has been followed e.g. by the Procurement Board, and that any necessary waiver has been granted.

#### *5.1.1 Framework Agreements/Contracts*

Procurements from Frameworks are exempt from the full application of the Rules provided the framework has been properly procured under the Regulations and the procurement is made in accordance with the Framework's terms and conditions.

#### *5.1.2 Consortia Arrangements*

Where a procurement is made by another public authority or body (as lead contracting authority) acting with, by, or for the Council and any other authority, these Rules will not apply provided the Regulations and standing orders of the lead contracting authority or body have been followed and the provisions of Part B followed.

#### *5.1.3 Emergency procurements*

Goods, works or services may be procured in a genuine Emergency without complying fully with the Rules provided an appropriate waiver has been obtained in accordance with Rule 6.

#### *5.1.4 Personalised Contracts*

Chief Officers may exempt Personalised Contracts from the full tendering requirements of these Rules. Officers must ensure however that the requirements of Part B to these Rules are adhered to where possible. Procurement Strategy reports must be prepared before any procurement for such contract with a Contract Value of £50,000 or more is commenced, but ~~where~~ where such contract is a High Value Contract ~~the Contract Value is £100,000 or over, or less than £500,000,~~

such report shall be submitted for consideration and approval by the relevant Chief Officer rather than the Procurement Board. Personalised Contracts, where the Council is statutorily obliged to enter into the contract, may be approved by the Chief Officer rather than by Cabinet/HWB.

- 5.1.5 *The instructing of counsel or lawyers by the Head of Legal & Democratic Services where the Contract Value is less than £50,000*

## 6 Waivers

- 6.1 Subject to Rules 6.2 and 6.3 below, where for any of the reasons set out in Rule 6.6.1 to 6.6.8 a Chief Officer is satisfied that compliance with any of the provisions of Part C of these Rules will prejudice the Council's interests, that Chief Officer may grant or where applicable, apply to Cabinet/HWB for a waiver of compliance with any of the Rules in Part C of these Rules.
- 6.2 No waiver shall be granted by a Chief Officer or by Cabinet/HWB which purports to or has the effect of waiving the requirements of UK and EU Law or the EU Treaty principles of transparency, equality and non discrimination.
- 6.3 Where the Contract Value of a contract is or exceeds £500,000, approval to waive any of the Rules in Part C must be obtained from the Cabinet/HWB except in an Emergency, in which case the Chief Executive can issue the waiver pursuant to Rule 6.4 below.
- 6.4 Subject to clause 6.6 below, in an Emergency, the Chief Executive can, on the advice of the Head of Legal Services and the Chief Finance Officer, issue a waiver from compliance with any of the provisions contained in Part C of these Rules for a contract with a Contract Value which exceeds £500,000, provided the requirements of the Urgent Action procedure set out in paragraph 17 of Article 1 of the Constitution are complied with and subject to the Regulations. Any such waiver must be reported to the next available meeting of the Cabinet/HWB.
- 6.5 A Chief Officer may, subject to Rules 6.2 and 6.6, issue a waiver of any of these Rules contained in Part C where the Contract Value of procurement the Contract is below £500,000.
- 6.6 Before a waiver is granted, a report must first be submitted to Cabinet/HWB or to the Chief Officer (as appropriate) clearly stating which of the grounds set out below is relied upon for a waiver:
- 6.6.1 That an Emergency situation exists, or
- 6.6.2 That there is clear evidence the goods, services or works to be procured are of a specialist technical, artistic or proprietary nature, or

6.6.3 That there is only one supplier in the market capable of providing the service, goods or works (e.g. a specific artist with intellectual property rights in a work of art), such that there is no benefit to be gained from competition or

6.6.4 For reasons of systems or software licence support or compatibility, or

6.6.5 The circumstances of the proposed contract are covered by legislative exemptions (whether under EU or English law); **or**

**In the case of non-EU procured contracts only, any of the above or where:**

6.6.6 The contract is a Personalised Contract, or

6.6.7 The nature of the market for the works to be carried out or the goods or services to be provided has been investigated and is such that a departure from the requirements of Contract Rules is justifiable; or

6.6.8 There are other circumstances which are genuinely exceptional

**And** in any and every such case as mentioned in Rule 6.6.1 to 6.6.8, the appropriate decision-maker considers, subject to the requirements of the Regulations and these Rules, that no satisfactory alternative is available and it is in the Council's overall interests.

6.7 Advice should be obtained from Corporate Procurement or Legal Services where Officers are unsure whether any of the above-mentioned grounds apply to any particular request for a waiver.

6.8 Waivers must not be used to avoid the administrative inconvenience of a tender process. The provisions to waive the requirement to tender and in particular the "Emergency" waiver provisions (as set out in Rule 6.4 above), must only be used in exceptional circumstances. Urgency produced by poor procurement planning would not qualify for this waiver.

6.9 An Emergency for the purpose of this Rule must be agreed as an emergency by the Chief Officer, the Head of Legal Services and the Chief Finance Officer.

6.10 Any waiver granted by ~~from~~ a Chief Officer must be evidenced in a Delegated Authority Decision Statement. Every such Delegated Authority Decision Statement must be supported by a written report. Where the waiver relates to a contract with a Contract Value of £50,000 or more the report shall be in the form of a Procurement Strategy Report. Where the waiver relates to a class D, E or F contract, the Procurement Strategy Report must contain sections outlining the Financial and Legal Implications written by the Chief Finance Officer and the Head of Legal Services respectively, or their nominated delegates.

6.11 The Chief Officer must keep a written record of all waiver approvals for his/her department and work with Corporate Procurement to avoid seeking exemptions in future. Copies of this record must be produced to the Procurement Board, and when required, by the Monitoring Officer or Audit.

## 7 Cabinet and HWB's Role and Responsibilities

7.1 Cabinet is ultimately responsible for all the Council's strategic procurement. Whilst Chief Officers have delegated authority to procure and award contracts with a Contract Value of less than £500,000, Cabinet shall be entitled to require any such procurement or contract to be approved by Cabinet if it deems fit.

7.2 Whilst Cabinet and Cabinet Members may propose, agree or participate in setting the procurement strategy for any procurement or contract, Members, and in particular Cabinet Members, should avoid direct participation in the procurement and evaluation process for any contract.

7.3 The HWB has the same power as Cabinet to authorise the procurement and award of contracts where such procurement /contract is funded in part or in whole from the Public Health Grant or from within social care budgets.

7.4 Any approval, authorisation, waiver, reference or consultation required in these Rules to be made by/to Cabinet, may, where the procurement/contract is funded in part or in whole from the Public Health Grant or from within social care budgets, be made either by/to Cabinet or by/to the HWB. The relevant Chief Officer shall determine which is the more appropriate body to make the decision.

7.5 Cabinet/HWB must agree the Procurement Strategy for all procurements of:

7.5.1 all proposed revenue contracts with a Contract Value of £500,000 or more and

7.5.2 ~~procurements-contracts~~ where the final award may involve outsourcing any part of an existing in-house service or bringing a service back in-house

## 8 Chief Officer Responsibilities

8.1 Each Chief Officer for the department procuring the goods, works or services shall be responsible for the compliance by Officers within their department with these Rules.

8.2 Authority to make decisions under these Rules may be further delegated by Chief Officers to other Officers within their department. Those officers who have delegated authority to take decisions in the name of the Chief Officer must be identified in the Officer Scheme of Delegation for the relevant department.



8.3 Chief Officers will be held accountable for all decisions made within their department under delegated authority and these Rules.

8.4 The Strategic Director Customer Commercial and Service Delivery ~~Chief Finance Officer~~ ~~(in addition to being in his own right a Chief Officer)~~ shall be the Council's lead Officer responsible for procurement overview and obtaining value for money.

## 9 Officers' Responsibilities

- 9.1 Procurements and contracts can only be made or entered into by duly authorised Officers and in accordance with the Corporate and departmental Schemes of Delegation.
- 9.2 Officers must also ensure that any persons and/or organisations acting on behalf of the Council and spending Council funds e.g. contractors, agents, consultants and partners) fully comply with these Rules.
- 9.3 Officers responsible for purchasing on behalf of the Council **must** comply with these Rules, any accompanying Guidance, the Council's Procurement Strategy, Social Value Policy, applicable Financial Rules, and all UK and European Union law and binding legal requirements. In particular, where appropriate, Officers must comply with the provisions of the Public Contract Regulations 2006/2015. (as amended).
- 9.4 It is ~~is~~ Officers' ultimate responsibility before embarking on any procurement activity and particularly if they are in any doubt about whether the Rules apply, to seek appropriate advice, support and guidance from the Council's Corporate Procurement team and/or Legal Services.

## 10 Conflict of Interests

- 10.1 If any Officer or elected Member involved in any procurement or award of contract has any connection – whether past or present, direct or indirect – with any bidder, then:
- 10.1.1 that connection should be declared and registered using the appropriate conflict of interest form (see the Council's Constitution, in particular the Codes of Conduct for both Officers and Members); and
- 10.1.2 Such officer or Member must not participate in any aspect of the tender process.
- 10.2 Officers must not accept technical advice on the preparation of an Invitation to ~~T~~ tender or Quotation from anyone who may have a commercial interest in the contract if this may prejudice the equal treatment of all potential bidders or distort competition.
- 10.3 Any consultant or advisor appointed to provide professional or consulting services and advise on the procurement or design of a project, or to advise on the selection, award or weighting criteria must not be permitted to bid for that or any subsequent stage or other aspect of the work or project.

## 11 Consequences of not complying with these Rules

If the Council enters into a contract without complying with these Rules, the procurement process and subsequent contract could be challenged by an aggrieved party. If challenged the courts have the power to award damages against the Council or may issue an injunction which could prevent the Council from entering into the contract with a successful bidder.

In the case of a contract that should be procured under the EU procurement regime, i.e. under the Regulations, (~~Public Contracts Regulations~~) the courts also have the power to fine the Council and more importantly, can declare the award of the contract 'ineffective' which means that the Council may be prevented from entering into the contract or the contract may be cut short.

It is therefore imperative that there is strict compliance with these Rules when making procurement on the Council's behalf.

**Officers failing to comply with or found to have breached these Rules may be subject to disciplinary action.**

**PART B**

**BEFORE COMMENCING A PROCUREMENT EXERCISE**

**12. Pre-Procurement Review**

12.1 Before commencing a procurement, officers responsible for the procurement must first conduct a review of the proposed procurement to determine whether it will provide the Council with best value.

12.2 Officers' approach to the appraisal tasks must be proportionate to the complexity and value of the procurement and will require Officers to:

12.2.1 appraise the need for the expenditure and its priority;

12.2.2 define the objectives of the procurement;

12.2.3 **A** assess the risks associated with the procurement and how to manage them.

12.3 Officers must also:

12.3.1 Consider the size, scope, and specification of the goods, services or works required. In particular Officers must:

- 1) decide whether or not a contract should be divided into separate lots and determine the size and subject matter of such lot,
- 2) where Officers decide not to separate the contract into lots their reasons for so doing must be recorded in the Procurement Strategy Report and the Contract Award Report,
- 3) officers must also include in the ITT an indication whether tenders may be submitted for one, for several, or for all of the lots,
- 4) officers may limit the number of lots that may be awarded to one tenderer provided the maximum number of lots per tenderer is stated in the contract notice or in the ITT,
- 5) officers shall indicate in the ITT all the criteria or rules they intend to apply for determining which lots will be awarded where the application of the award criteria would result in one tenderer being awarded more lots than the maximum number, and
- 6) officers may award contracts combining several or all lots where they have specified in the notice or ITT that they reserve the possibility of doing so and indicate the lots or groups of lots that may be combined.

12.3.2 Determine the duration of the contract that will provide the most economically advantageous outcome for the Council.

- 12.4 Officers must be satisfied that there is sufficient budgetary provision (whether from Council or external funds) for the anticipated procurement and any sources of funding are agreed before conducting the procurement.

### 13 Procurement route

- 13.1 Officers must consider what procurement method and procedure is most likely to best achieve the Council's objectives, including, but not limited to:

13.1.1 a full tender exercise,

13.1.2 Procuring via an existing Framework agreement.

13.1.3 Utilising a buying consortium (e.g. ESPO, ~~CBC, Government Procurement Services CCS~~) to procure on behalf of the Council.

13.1.4 Procuring via an existing Corporate Contract ~~within the Council~~ or Council procured framework.

13.1.5 Procuring via the Council's Strategic Partnership Contract with Elevate.

### 14 Corporate Contracts

- 14.1 Officers must ensure they do not procure any works, goods or services or seek an exemption in relation to procuring any contract without first checking with Corporate Procurement whether the provision can be provided via an existing corporate contract i.e. one procured by ~~Corporate Procurement for~~ the Council generally and not necessarily by or for a specific department. Officers must use Council procured corporate contracts or framework agreements where these exist, unless otherwise specifically agreed with Corporate Procurement.

### 15 Delivery options

- 15.1 Officers must also consider the options for the delivery of the required goods, services or works. The options include but are not limited to:

15.1.4 Providing the goods, services or works in-house;

15.1.5 Getting a third party public or private body to provide the goods, services or works on behalf of the Council;

15.1.6 Providing the goods, services or works in partnership with a third party;

15.1.7 Commissioning jointly with another Council/public body;

15.1.8 Procuring from or via Elevate.

- 15.2 Officers should note that the Council has a strategic partnership agreement with Elevate and all goods, services or works that fall within the scope of the agreement must be procured from or via Elevate. Advice shall be taken from the Strategic Director Customer Commercial and Service Delivery Chief Finance Officer as to whether any particular procurement falls within the scope of the Elevate agreement.

### 16 Joint procurements

16.1 Officers should actively seek out opportunities to collaborate and procure jointly with other public bodies where this is likely to be of benefit to the Council.

16.2 Where a joint procurement occurs, the procurement rules of the authority leading the procurement will apply unless the lead authority specifically agrees otherwise.

## **17 Sustainable Procurement**

17.1 Sustainable procurement offers the Council the opportunity to encourage and work collaboratively with suppliers and contractors. Officers must consider the environmental and social impacts of the procurement and endeavour to adopt practices that maximise the beneficial impacts and minimise adverse or detrimental impacts on the environment.

17.2 Officers are required to consider ways of procuring more resource and energy efficient alternatives and pay particular regard to the Council's environmental policies.

## 18 The Council's Social Value Policy

### 18

18.1 Officers should procure in compliance with the Public Services (Social Value) Act 2012 and the Council's Social Value Policy

18.2 Before starting a procurement process, Officers should consider:

18.1.1 how what is proposed to be procured might improve the economic, social and environmental well-being of the Council's area, and:

18.1.2 How, in conducting the process of procurement, it might act with a view to securing that improvement.

18.1.3 Whether to conduct any consultation on the above matters to help shape specifications, programmes and services, and if so, with whom.

18.2 In particular officers should wherever possible, but without breaching any law, use the Council's purchasing power to support local small and medium enterprises (S.M.Es) or voluntary and community organisations and seek benefits and added value for the local geographical area and where this provides equal or better value for money for the Council than alternatives.

18.3 Officers must carefully review the required specifications and evaluation methodology of any procurement to ensure that small and medium sized enterprises are not being disadvantaged in their ability to tender for goods, works or services with the Council. Officers must not however, conduct a procurement in any way that is likely to show bias towards or discriminate in favour of any such organisation.

18.4 Officers must ensure that processes do not over burden or restrict S.M.Es or voluntary and community organisations from having the same opportunity to respond to procurements as those in the commercial sector. Equally, consideration should be given to the supply chain and how each specific procurement can help the local community and local small medium enterprises within the borough.

18.5 Officers may incorporate questions in their Invitations to Tender and evaluate responses relating to local economical benefits, social value benefits, and regeneration within the community or any other benefits (such as apprenticeships and employment) that support the local economy and prosperity for the borough where this is appropriate to the procurement. Advice on the preparation of the ITT and where appropriate, the PQQ, PQQ and ITT can be obtained from Corporate Procurement.

- 18.6 Officers must include a statement as to how the procurement meets and addresses the Council's Social Value policies in every Procurement Strategy Report covering the procurement.
- 18.7 Relevant bodies can, in exercise of the Community Right to Challenge (under the Localism Act 2011), propose a solution to provide a service that the Council currently provides. Advice on the process to follow should be obtained from the Council's Policy Team (should a challenge be received).

## 19 Market Research and Consultation with Third Parties

- 19.1 Officers responsible for procurement may consult potential providers prior to the commencement of a procurement exercise with a view to preparing the procurement and informing providers of their procurement plans and requirements. This may include seeking or accepting advice from independent experts, authorities or from market participants. Advice obtained in the preliminary market consultation process can be used in the subsequent planning and conduct of the procurement procedure provided that the advice does not have the effect of distorting competition and does not breach requirements for non-discrimination and transparency. in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this consultation does not prejudice or favour any potential bidder. Officers should consult Corporate Procurement for advice.
- 19.2 Where a candidate or tenderer, or an undertaking related to a candidate or tenderer, has been involved at the pre-procurement stage (for example they have advised the Council in relation to 19.1 above or have otherwise been involved in the preparation of the procurement procedure) the Council must take appropriate measures to ensure that competition is not distorted by the participation of that candidate or tenderer, for example by providing the information which has been made available at the pre-procurement stage to all tenderers.
- 19.3 The candidate or tenderer concerned shall only be excluded from the procedure where there are no other means to ensure compliance with the duty to treat suppliers equally.
- 19.4 Prior to any such exclusion, candidates or tenderers shall be given the opportunity to prove that their involvement in preparing the procurement procedure is not capable of distorting competition.
- 19.5 Officers must avoid any conflict of interest as provided for in Rule 10 of these Rules.



## **20 TUPE – Transfer of Undertakings (Protection of Employment) and pensions**

- 20.1 Where, as a result of any procurement, any employee either of the Council or of a current service provider is likely to be affected by changes to staffing or work conditions, redundancy, relocation or transfer of employment, Officers must have regard to the possible impact on such procurement and employee(s) of the Transfer of Undertaking of Protected Employment (TUPE) Regulations 2006, as amended. Such TUPE issues should be included in the procurement strategy report and any evaluation and award reports.
- 20.2 Officers must ensure that appropriate consultation with staff and trade unions is undertaken and that pension entitlements are considered and as far as possible, protected.
- 20.3 Advice regarding TUPE must be sought from the Corporate Procurement, and Human Resources teams and where necessary, from Legal Services.

## **21 Insurance**

- 21.1 Before commencing procurement, Officers should take advice from the Council's Insurance team on levels and type of insurance that may be required for the procurement.
- 21.2 Every contract for the carrying out of work or the provision of services shall require the contractor to take out and maintain during the duration of the contract such levels of Employers Liability, Third Party Liability, Professional Indemnity and such other insurance as the Council's Insurance team shall advise as being necessary and appropriate to the particular contract.
- 21.3 Such insurance policies shall contain endorsements sufficient to indemnify the Council against any loss, damage or injury to persons or property arising from the contractor's operations in connection with the contract.

## **22 Pre-procurement Notices**

- 22.1 Officers must ensure that any Prior Information Notices (PINs) or Voluntary Ex-Ante Transparency (VEAT) notices, required for the EU Procedure are placed in the Official Journal of the European Union (OJEU) by a member of Corporate Procurement.
- 22.2 Prior Information Notices (PINs):

- (a) May be used by the Council to make known their intention of planned procurements through the publication of a prior information notice, or
- (b) as a call for competition. In each such case the provisions of Regulation 48 shall be complied with.

Where officers wish to use this method, advice must be sought from Corporate Procurement and Legal Services.

## **23 Procurement strategy and Procurement Board scrutiny**

- 23.1 Before any procurement process for contracts with a Contract Value of £50,000 or above begins, a formal procurement strategy MUST be planned and a written Procurement Strategy Report (as described in Rule 24 below) prepared.
- 23.2 Subject to Contract Rule 23.3 The Procurement Strategy Report must be submitted:
  - 23.2.1 In the case of contracts requiring Cabinet/HWB approval and other High Value Contracts, to the Procurement Board for consideration and comment prior to Cabinet/HWB or Chief Officer approval, or
  - 23.2.2 in the case of contracts with a Contract Value of £50,000 or more but which are not High Value Contracts~~more but less than £100,000~~, or Personalised Contracts, to the relevant Chief Officer,.
- 23.3 A Procurement Strategy Report shall not be required to be prepared where the procurement strategy is included in the annual Procurement Plan report as set out in rule 25.3 or where Cabinet/HWB has approve the scheme specifically and has delegated authority to the Procurement Board to approve the procurement strategy
- 23.4 Before commencing a procurement, Officers must ensure that an accurate procurement timetable is calculated taking into account all of the requirements of the procurement process.
- 23.5 Where the Regulations apply, the applicable statutory timescales must be complied with.

## **24. Procurement Strategy Report (for Contracts Valued above £50,000)**

- 24.1 A Procurement Strategy Report must be completed for every contract procurement other than Class A or B contracts (contracts with a Contract Value less than £50,000).

24.2 The Procurement Strategy Report must specify the strategy proposed for the procurement, and must address the following issues:

24.2.1 an outline specification of the works, goods or services being procured;

24.2.2 the estimated Contract Value, including the value of any uplift or extension period;

24.2.3 the duration of the contract, including any options for extension;

24.2.4 the outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract;

24.2.5 in the case of service contracts whether the service is subject to the Regulations and if so, whether they are subject to the Light Touch Regime. are Part A or Part B Services.

24.2.6 a recommended procurement procedure and the reasons for the recommendation, evidencing what alternative solutions (including existing contracts and Frameworks) were considered but were not pursued;

24.2.7 details of the criteria against which the contract is to be awarded, (advice on this should be obtained from Corporate Procurement)

24.2.8 details of whether the contract is to be subdivided into lots and any details relating to such sub-division as required in Contract Rule 12.3.1,

24.2.9 an explanation as to whether and how the procurement will address and implement the Council's Equality and Social Value policies.

24.2.10 the contract delivery methodology to be adopted,

24.2.11 confirmation whether the procurement constitutes a Key Decision and if so, ensuring that all requirements in respect of the same have been complied with, including confirmation that the procurement has been placed on the Forward Plan prior to formal approval;

24.2.12 an indication whether employees are to be TUPE transferred as part of the procurement and if so, the staffing, trade union and financial implications of such transfer.

24.2.13 details of any consultations had or to be had with relevant stakeholders including unions and service users

24.2.14 details (including any results) of any impact assessments conducted or to be conducted.

24.3 For procurements requiring Cabinet/HWB approval (those with a Contract Value of £500,000 and above), the Procurement Strategy Report should also:

24.3.1 confirm that the proposal has been agreed in principle by the Procurement Board and that the proposed solution fits in with corporate strategies;

24.3.2 ~~request that Cabinet/HWB delegate authority to the relevant Chief Officer, in consultation with the relevant Cabinet Member(s), the Strategic Director of Finance and Investment and the Director of Law and Governance, to conduct the procurement and enter into the contract with the successful bidder (s) and/or any other necessary agreements in accordance with the strategy set out in the report. request Cabinet/HWB to indicate whether it wishes to be further informed or consulted on the progress of the procurement and /or the award of the contract.~~

24.3.2 ~~Where the Procurement Strategy Report relates to:~~

24.3.2 ~~A procurement, the contract value of which is £50,000 or more (but not a contract above EU thresholds or a High Value Contract) or to a personalised contract it shall be submitted to a corporate director for consideration before she/he approves the procurement and contracts award~~

24.3.2 ~~A procurement for a contract above EU thresholds or a High Value Contract, it shall be submitted to the Procurement Board for consideration and comment before being submitted to Cabinet/HWB or the relevant Chief Officer (as appropriate) for approval.~~

24.4 Where, following the submission of a Procurement Strategy Report to the Procurement Board or relevant Chief Officer, additional criteria or requirements are set by the Procurement Board or relevant Chief Officer, Officers must comply with those requirements.

24.5 All Procurement Strategy Reports for contracts with a Contract Value of £100,000 or more must contain sections outlining the Financial and Legal Implications written by the Chief Finance Officer and the Head of Legal Services respectively, or their nominated delegates.

## 25. The Corporate Procurement Plan

- 25.1 Corporate Procurement shall prepare and maintain an annual forward-looking Procurement Plan. The Plan shall consist of details of all of the new contracts which have been registered with Corporate Procurement and for which procurements (including extensions, additions and renewals) are planned for the forthcoming financial year. The Plan shall include all contracts with a Contract Value of £500,000 or above scheduled to start in the forthcoming financial year.
- 25.2 The Procurement Plan serves two principal purposes:
- 25.2.1 To provide Cabinet and other readers with an overview of significant procurement activity.
  - 25.2.2 To inform potential suppliers of major future market activity.
- 25.3 Corporate Procurement shall each year prepare and submit an annual report to Cabinet detailing the contracts on the Procurement Plan and a brief summary of the proposed procurement strategy for each contract to include the items set out in Rules 24.2.1 to 24.2.7 above.
- 25.4 Cabinet may, upon consideration of the Procurement Plan report, confirm its agreement to the proposed Plan in its entirety or in part and may identify any individual procurements/contracts about which it requires separate more detailed Procurement Strategy Reports to be submitted to it for closer consideration.
- 25.5 No contract shall be included in the Procurement Plan report for approval by Cabinet unless a Procurement Strategy Report has first been prepared and reviewed by the Procurement Board.
- 25.6 The procurement strategy for aAny contract with a Contract Value above £500,000 which has not been approved by Cabinet as part of the Procurement Plan in accordance with this Rule 25 must be approved as set out in the table in Rules 24 and 28.
- 25.7 The Procurement Plan shall be regularly reviewed and updated with any new planned procurement activities added to existing approved entries.
- 25.8 Corporate Procurement shall prepare and submit to Cabinet ~~on a quarterly basis (or such other frequency as Cabinet shall deem appropriate)~~ update reports on the Procurement Plan on a quarterly basis (or such other frequency as Cabinet shall deem appropriate).
- 25.9 A similar plan and report as described in this Rule 25 shall be prepared and maintained in respect of contracts funded in part or in whole from the Public Health Grant or from within social care budgets, and reports thereon submitted (following the same procedure as set out above) for approval by the HWB at such frequency as the HWB shall deem appropriate.

**26 Key Decision**

- 26.1 Officers must consider whether a procurement involves a Key Decision. If it does, and the Contract Value is £200,000 or more, then Officers must enter the Procurement Strategy Report ~~matter~~ on the Forward Plan.
- 26.2 Chief Officers may approve the procurement and award of contracts with a Contract Value of less than up to £500,000, ~~–,~~ Chief Officers must however consider whether in the circumstances of the particular contract, such a decision should be made by them or whether it is more appropriate that the decision be made by Cabinet or HWB.

## PART C

### THE PROCUREMENT PROCESS

#### 27 Contract Value

- 27.1 Procuring Officers must ensure that they obtain value for money with every procurement. Value for money is defined with reference to price, quality, availability, functionality and the optimum combination of whole life costs. Opportunities to save money by providing the optimum service for less than budgeted price should also be pursued.
- 27.2 Wherever practicable, procurements for a given type of goods, service or works from across the Council should be amalgamated for the purpose of determining the Contract Value, procurement procedures and thresholds. This also applies to Framework Agreements. Officers must consult with Corporate Procurement.
- 27.3 Officers shall ensure that all contracts are procured in accordance with the procedures prescribed by law and these Rules as being appropriate to the type of procurement.
- 27.4 Officers shall comply with the procurement procedure prescribed in the Approval Table in Rule 28 for the relevant Contract Value of the contracts.
- 27.5 Where a contract includes the service provider offering goods, services or works as part of their bid, the monetary value of the goods, service and works must be considered and calculated in addition to any remaining monetary value of the contract. Officers should seek the advice of Corporate Procurement in these cases.
- 27.6 Officers shall not sub-divide works, services or goods contracts into small contracts with the intention of avoiding compliance with these Rules, thresholds or any legal requirement where these ~~that~~ could reasonably be treated as a single contract ~~so as to avoid compliance with these Rules, thresholds or any legal requirements.~~ For the avoidance of doubt this shall have no effect on the obligation referred to in 12.3.1.
- 27.7 If the contract value of the procurement is on the border of two of the financial thresholds in the Approval Table, the Contract Value should be treated as falling into the higher band. Procurement must not be divided into smaller parts with the sole purpose of bringing it into a lower banding or avoiding full compliance with the requirements for contracts in the higher band.
- 27.8 If procurement involves a mixture of goods, works and/or services advice should be sought from Corporate Procurement as to how such procurement should be categorised.
- 27.9 An assessment of the Contract Value of a procurement ~~required~~ shall still be necessary notwithstanding the Council will be receiving and using external

funding to cover the cost of the project, services or works. The use of external funding does not preclude the application of the Rules or the Regulations.

27.10 The calculation of the Contract Value shall be exclusive of VAT.

**28 Approval Table Contract Values Procedure**

28.1 The following table indicates the class bands in relation to the procurement process which must be followed and the requisite authority for the different valued contracts to be obtained.

28.1 <b>Contract Value</b>	28.1 <b>Class</b>	28.1 <b>Procurement Process</b>	28.1	28.1 <b>Approval</b>
28.1 £1 to 28.1 Under £5000	28.1 A	28.1 Value for 28.1 Money	28.1 As per 28.1 Scheme of 28.1 Delegation	
28.1 £5,000 and over to 28.1 Under £50,000	28.1 B	28.1 3 28.1 documented quotes	28.1	28.1 As per 28.1 Scheme of 28.1 Delegation
28.1 £50,000 and over to 28.1 Under £100,000	28.1 C	28.1 Formal 28.1 invitation to tender	28.1	28.1 As per 28.1 Scheme 28.1 Delegation
28.1 £100,000 and over to 28.1 Under EU 28.1 procurement thresholds	28.1 D	28.1 Formal 28.1 invitation to tender	28.1	28.1 As per 28.1 Scheme 28.1 Delegation
28.1 EU procurement 28.1 thresholds to Under 28.1 £500,000	28.1 E	28.1 Formal 28.1 invitation to tender 28.1 28.1 Compliance 28.1 with the Regulations 28.1 (for above threshold 28.1 procurements 28.1 28.1 Compliance 28.1 with EU Treaty 28.1 principles (for below	28.1	28.1 Corp 28.1 Procure 28.1 Board (e 28.1 High Va 28.1 Contract 28.1 28.1 Corp 28.1 Procure 28.1 Board, a 28.1 Chief 28.1 or as pe 28.1 of Deleg



			threshold and Part B services procurements)		
28.1	<del>£500,000 or over</del>	28.1	F	28.1 Formal invitation to tender	28.1
				28.1	28.1 Corp Procure Board, a 28.1 Cabi 28.1

28.1

28.1 All the required approval forms must be completed fully and accurately.

**Contracts Valued below £5,000**

28.2 Where the Contract Value is estimated to be less than £5,000 (Class A contracts), Officers, should act in the most expedient manner to secure value for money for the Council. Value for money must be demonstrated in writing.

**Contracts Valued above £5,000 but below £50,000**

28.3 Where the contract value of the procurement is estimated to be more than £5,000 but less than £50,000 (Class B contracts), competitive quotes must be obtained from at least three contractors without the need to advertise the contract or follow a competitive tendering exercise. The process for submission of Quotes shall mirror the provisions in relation to Submissions and Opening of Tenders set out in Rule 43 and the selection process shall be managed in accordance with the Department’s financial Scheme of Delegation. Where appropriate, Officers shall make use of any existing Framework Agreement.

**Contracts Valued £25,000 or more**

28.4 Contracts below £50,000 may, but need not be, opened to competitive tender. Where Officers decide to subject such contracts to competitive tender and the Contract Value is £25,000 or more then such contracts must be advertised on Contracts Finder within 24 hours of the time when the procurement is advertised in any other way. Where such contract opportunity is advertised on Contracts Finder a contract award notice must also be published on Contracts Finder. The requirement to advertise within Contracts Finder shall only apply where the contract is fully advertised. The procurement process, including reasons and award, must be recorded in an officer DA decision statement.

**Procurement Process for Contracts Valued above £50,000**

28.5 Contracts with an estimated Contract Value of £50,000 or more (Class C, D or E contracts) must (except where a formal waiver in accordance with Rule 6 of these Rules has been obtained) be let following publication of an appropriate advertisement and a subsequent competitive tendering process

(single stage tender is required for procurements below EU thresholds) as set out in these Rules.

Procurement Strategy Reports shall be prepared by Officers and approved by the Chief Officer for all procurements with a Contact Value of £50,000 or over.

**Procurement process for contracts above EU threshold and High Value Contracts but below £500,000**

28.6 Procurement Strategy Reports for all procurements for ~~contracts above EU thresholds and~~ High Value Contracts must be prepared and submitted to the Procurement Board for consideration before being approved by the Chief Officer.

**Procurement process for Contracts Valued £500,000 or above**

28.7 Except in an Emergency or Personalised Contracts where the Council is statutorily obliged to enter into the contract, all procurements for contracts with a Contract Value of £500,000 or more must be approved by Cabinet/HWB.

28.8 The procurement strategy for any such procurement must be set out in a Procurement Strategy Report and first be submitted to the Procurement Board for consideration before being submitted to Cabinet for approval.

**28.9 Approval Table**

28.9.1 The following table indicates the class bands in relation to the procurement process which must be followed, the documents required to be completed and the requisite authority for the different valued contracts to be obtained.

<u>Contract Value</u>	<u>Class</u>	<u>Procurement Process</u>	<u>Documents Required</u>	<u>Approval</u>
<u>£1 to Under £5000</u>	<u>A</u>	<u>Value for Money</u>	<u>Officer Delegated Authority Decision statement which must demonstrate value for money (CR28.3)</u>	<u>As per Directorate Corporate Scheme of Delegation</u>
<u>£5,000 and over to Under £50,000</u>	<u>B</u>	<u>3 documented quotes</u>	<u>Contract Award Report under officer DA (CR 51.3)</u>	<u>As per Directorate Corporate Scheme of Delegation</u>
<u>£25,000 and over to under £50,000</u>		<u>See Rule 28.4</u> <u>Advertisement on Council website and Contracts Finder</u>	<u>Information about contract award published on Contracts Finder</u>	

			<p><u><b>If Waiver Required:</b> Officer Delegated Authority decision statement supported by a report. (CR6.10)</u></p>	<p><u>Chief Officer</u></p>
<p><u>£50,000 and over but which are not High Value Contracts</u></p>	<p><u>C</u></p>	<p><u>Formal invitation to tender by way of a single stage (open) tender exercise.</u></p> <p><u>Advertisement on Council website and Contracts Finder.</u></p> <p><u>Compliance with EU Treaty principles (for below threshold and Light Touch Regime procurements)</u></p>	<p><u>Procurement Strategy and waiver Report for officer approval under DA (CR 24.1)</u></p> <p><u><b>At award stage a Contract Award Report must be completed (CR 51.3)</b></u></p> <p><u>Information about contract award published on Contracts Finder</u></p> <p><u><b>If Waiver Required:</b> Officer Delegated Authority Decision Statement supported by a Procurement Strategy Report (CR6.10) to include justification for a waiver under grounds in CR 6.6.</u></p>	<p><u>As per Directorate Corporate Scheme of Delegation</u></p> <p><u>Chief Officer</u></p> <p><u>Chief Officer</u> <u>Include a recommendation in the Procurement Strategy Report and justification under grounds in rule 6.6 for a waiver</u></p>

<p><u>High Value Contracts which are under EU procurement thresholds</u></p>	<p><u>D</u></p>	<p><u>Formal invitation to tender.</u></p> <p><u>No PQQ for contracts with a Contract Value below the EU procurement thresholds for supplies and services (including works)</u></p> <p><u>Advertisement on Council website and Contracts Finder.</u></p> <p><u>Compliance with EU Treaty principles (for below threshold and Light Touch Regime procurements)</u></p>	<p><u>Procurement Strategy and waiver report for officer approval under DA (CR24.1) with to include Financial and Legal Implications.</u></p> <p><b><u>At award stage a Contract Award Report must be completed (CR 51.3)</u></b></p> <p><u>Information about contract award published on Contracts Finder</u></p> <p><b><u>If Waiver required: Officer Delegated Authority Decision Statement supported by a Procurement Strategy Report which also contains financial and legal implications (CR 6.10 and include justification for waiver under grounds in CR 6.6)</u></b></p>	<p>1) <u>As per Corporate Directorate Scheme of Delegation</u></p> <p>2) <u>Corporate Procurement Board .</u> <u>(only for High Value Contracts)</u> <u>Include a recommendation in the Procurement Strategy Report and justification under grounds in rule 6.6 for a waiver</u></p> <p><u>As per Directorate Scheme of Delegation</u></p> <p><u>Chief Officer,</u></p>
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## Appendix A

				following Procurement Board approval.
<u>EU procurement thresholds to Under £500,000</u>	<u>E</u>	<p><u>Formal invitation to tender</u></p> <p><u>Compliance with the Regulations (for above threshold procurements</u></p> <p><u>Advertisement in OJEU on and Contracts Finder and on Council website.</u></p> <p><u>If Contract Value is £200,000 or over, enter on Forward Plan as Officer Key Decision.</u></p> <p><u>Compliance with EU Treaty principles (for below threshold and Light Touch Regime procurements)</u></p>	<p><u>Procurement Strategy and waiver Report for officer approval under DA (CR24.1) with Finance and Legal Implications financial and legal implications.</u></p> <p><b><u>At award stage a Contract Award Report must be completed (CR 51.3)</u></b></p> <p><u>Contract Award Notice published in OJEU and award information -on Contracts Finder.</u></p> <p><b><u>If Waiver required: Delegated Authority Decision Statement supported by a Procurement Strategy Report which also contains financial and legal implications (CR 6.10) to include justification for waiver under grounds in CR 6.6.</u></b></p>	<p>1) <u>Corporate Procurement Board, and</u></p> <p>2) <u>Chief Officer or as per Directorate Corporate Scheme of Delegation</u></p> <p>3) <u>Cabinet/HWB at the discretion of the Chief Officer</u></p> <p><u>Chief Officer</u></p> <p><u>Chief Officer, following Procurement Board approval.</u></p>

<p><u>£500,000 or over</u></p>	<p><u>F</u></p>	<p><u>Formal invitation to tender</u></p> <p><u>Advertisement in OJEU and on Contracts Finder and on Council website.</u></p> <p><u>Enter on Forward Plan. Compliance with EU Treaty principles (for below threshold and Light Touch Regime procurements)</u></p>	<p><u>Cabinet procurement strategy and waiver report template.</u></p> <p><u>At award stage a Contract Award Report must be completed (CR 51.3)</u></p> <p><u>Contract Award Notice published in OJEU and award information on Contracts Finder.</u></p> <p><u>If Waiver required: Delegated Authority Decision Statement supported by a Cabinet Procurement Strategy and waiver reReport which also include justification for waiver under grounds in CR 6.6 contains financial and legal implications (CR 6.10)</u></p>	<p>1) <u>Corporate Procurement Board, and</u></p> <p>2) <u>Cabinet/HWB</u></p> <p><u>Chief Officer, unless Cabinet/HWB decides otherwise.</u></p> <p><u>Cabinet/HWB</u></p>
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**29 Advertisements & Notices**

29.1 Except where a waiver has been granted in accordance with these Rules, all contracts must be advertised to a degree and in a manner that demonstrates adherence to the EU procurement principles of transparency, openness and non-discrimination. The degree and manner of advertising must be sufficient to allow the relevant market to be opened up to competition. The decision as to the degree of advertising necessary has to be based on an evaluation of the

individual circumstances of each case such as the subject-matter of the contract, its estimated value, the size and structure of the market, the geographic location of the place of performance and the likely cross-border interest in the contract. This Rule applies irrespective of whether a proposed ~~will determine necessary~~ contract is of low value (under at the relevant EU threshold) or a Part B services subject to the Light Touch Regime and therefore not subject to the full requirements of the Regulations.

29.2 Officers shall ensure that the provisions of Rule 18 (Council's Social Value Policy) are applied when deciding where and how to advertise the contract.

29.3 Except where a valid waiver from tendering requirements has been obtained in accordance with these Rules, no Class C, D, E or F contract shall be procured without competitive tenders having been obtained by one of the following methods:

29.3.1 In the case of contracts below Regulation thresholds (including contracts below the threshold or for Part B Light Touch Regime Services), by selection of bidders from an EU-procured framework or following appropriate advertisement and tender exercise.

29.3.2 In the case of Part A contracts to which the full Regulations regime apply (including above threshold contracts covered by the Light Touch Regime), following a formal Contract Notice having been published in the Official Journal of the European Union ('OJEU'). Copies of all such notices must be published on the Council's web site.

29.4 All procurements, the aggregate Contract Value of which exceeds £50k must as a minimum, be advertised on the Council's website and on Contracts Finder

29.5 Where a procurement may attract cross-border interest within the EU, an advertisement must also be placed on a suitably accessible website. Advice on whether any particular website is suitably accessible should be sought from Corporate Procurement.

### **30. Electronic Communication and Access to Documents**

30.1 All communication and information exchange relating to and during a procurement exercise must be carried out by electronic means. Where Officers wish to use an alternative method this must be allowed under the Regulations and Officers must seek advice from Corporate Procurement.

30.2 Officers shall, by means of the internet, offer unrestricted and full direct access free of charge to the Procurement Documents from the date of publication of the contract notice or the date on which the ITT is sent.

### **31. Pre-Qualification Questionnaire (PQQ)**

31.1 Tenders that fall below the EU threshold values for goods and services will follow a single stage procurement i.e. one stage which will encompass selection

and award criteria. A Pre-Qualification Questionnaire (PQQ) stage shall not be included for tenders below the EU threshold for goods and services whether such contract is for goods, services or works. A PQQ stage may be included for works contracts with a Contract Value over the threshold for goods and services. The Council can however ask Suitability Assessment Questions. These are questions which are relevant to the subject matter and proportionate. The Council may only use the information and evidence requested in suitability assessment questions to establish whether candidates meet requirements or minimum standards of suitability, capability, legal status or financial standing. All candidates meeting the requirements and minimum standards must be invited to tender.

31.2 Where in above threshold procurements Officers decide to include a PQQ stage they shall:

31.2.1 use the Standardised Pre-Qualification Questionnaire (or the PAS91 for works contracts);

31.2.2 verify that bids submitted comply with the rules and requirements applicable to the tender; and

31.2.3 check whether grounds for exclusion apply and selection criteria is satisfied.

31.3 The Council may with a view to determining the economic and financial standing of tenderers impose requirements that tenderers possess the necessary economic and financial capacity to perform the contract.

31.4 In determining the requirements of 31.3 the Council may require tenderers:

31.4.1 to have a minimum yearly turnover, which should not, except in exceptional high risk situations, exceed twice the estimated Contract Value;

31.4.2 provide information on their annual accounts showing the ratios, for example, between assets and liabilities; and

31.4.3 have an appropriate level of professional risk indemnity insurance.

## **32. EU Procurement Procedures**

32.1 Where a competitive tendering process is to be undertaken, the procurement procedure to be followed shall be determined prior to advertising and where the procurement comes within the scope of the Regulations the procurement procedure shall be one of the following procedures prescribed by the Regulations:



32.1.1. **Open procedure** - where all contractors expressing an interest in the contract are invited to submit tender bids in response to an advertisement;

32.1.2 **Restricted procedure** - where all interested contractors are invited to submit expressions of interest in response to an advertisement, and shortlisted contractors are then invited to submit a tender bid;

32.1.3 **Competitive Procedure with Negotiation** – where all interested bidders are invited to submit expressions of interest in response to an advertisement, and shortlisted contractors are invited to negotiate. This procedure can be concluded following evaluation of the bidders initial tenders or can be carried out in successive stages in order to reduce the number of tenders to be negotiated provided this is indicated to bidders upfront. When the Council intends to conclude the negotiations it must inform the bidders and set a deadline for submission of new or revised tenders. The Council must then assess the final tenders on the basis of the award criteria and award the contract. ~~Negotiated procedure—where all interested contractors are invited to submit expressions of interest in response to an advertisement, and shortlisted contractors are then invited to negotiate; or~~

32.1.4 **Competitive dialogue** - where all interested contractors are invited to submit expressions of interest in response to an advertisement, and the Council enters into dialogue with shortlisted contractors to identify a solution (or solutions) which meets the Council’s requirements, and selected bidders are invited to submit tenders based on the solution/s resulting from the dialogue.

32.1.5 **Innovation Partnership** - a procedure designed to allow the Council to establish a long-term partnership for the development and subsequent purchase of a new, innovative product, service or works. Officers must obtain advice from Corporate Procurement and Legal Services in relation to this procedure.

32.1.6 **Negotiated Procedure without prior publication** – this procedure may be used where the specific grounds for its application apply. Use of this procedure will require a waiver under Contract Rule 6 and advice of Legal Services as well as Corporate Procurement needs to be obtained before proposals for its use are progressed.

## 32.2 Below EU threshold **Procurements and Part B Services** –

32.2.1 ~~There are no prescribed procedures to be followed for the procurement of contracts with a Contract Value below EU Thresholds. Officers can determine what procedure to use and-but shall not introduce a pre-qualification stage. Any such procurement will be subject to the application not be subject to the EU procedures above but will be subject to of the~~ EU Treaty principles of transparency, non-discrimination and openness. Officers should consult with Corporate Procurement for advice.

## 32.3 **Social, Education, Health and Other Specific Services**

32.3.1 Contracts for social, education, health and other specific services listed in Schedule 3 of the Regulations and which have a contract value of £589,148 or over shall be subject to the Light Touch Regime. The Light Touch Regime means that the procurement of these contracts are not subject to the same full regime as other above threshold service contracts but are subject to a lighter touch procedure which requires only that a contract notice or PIN be used to commence the procurement and a contract award notice published once a contract has been awarded. The Council has flexibility to determine what type of procedure it uses but any such procedure must comply with the principles of equal treatment and transparency and provide reasonable and proportionate timescales. Officers may use or adapt any of the procedures set out in Contract Rule 32.1.

### 33 Purchasing from Framework Agreements

- 33.1 Officers may access and call-off goods, services or works from a Framework Agreement if the Council is either specifically named or described or referred to in acceptable geographic terms (e.g. “all London Boroughs” or “all UK local authorities” etc) in the Framework Agreement and the scope of the Council’s requirements are specified in the Framework.
- 33.2 Officers must get confirmation from Corporate Procurement that the Council is signed up to or otherwise has access to a specific Framework Agreement before procuring from that Framework Agreement.
- 33.3 Where the terms of a Framework Agreement provide allow for direct call-offs without competition and the terms of such call-off are sufficiently precise, Officers may, after consultation with Corporate Procurement and/or Legal Services, call-off under the Framework Agreement without competition.
- 33.4 Where it is proposed to award a specific contract based on a Framework Agreement in which all the terms of the proposed contract are not laid down or where the terms of the Framework Agreement so specify, a mini- competition shall be held in accordance with the terms of the Framework Agreement. Unless otherwise provided, tenders shall be invited from all members of the relevant category of the Framework Agreement which are capable of carrying out or delivering the requirements of the specific contract.
- 33.5 Procurement Strategy Reports must be prepared for all procurements with a Contract Value of £50,000 or more intended to be made from framework agreements except where the subject-matter of the procurement has been included within the scope and calculations of a previously approved Procurement Strategy Report covering the procurement of works, goods or services of the nature proposed from the framework agreement.

33.6 Details of all contracts awarded under Framework Agreements must be provided to Corporate Procurement who shall publish such details on Contracts Finder and include all such details in a quarterly report to Cabinet. and reported to Cabinet retrospectively on a quarterly basis.

#### **34 Setting up a Framework Agreement**

34.1 Officers must prepare a Procurement Strategy Report before they procure any Framework Agreement. Such procurement report must be approved by the Chief Officer or Cabinet/HWB, as the case may be, in accordance with the approval process set out in Contract Rule 28 and ascertained on the basis of the aggregate Contract Value of the Contracts to be let under the Framework Agreement. A Procurement Strategy Report must be prepared and approved by Cabinet before any Framework Agreement can be set up by Officers.

34.2 The term of any Framework Agreement must not exceed four years (EU requirement) except in exceptional circumstances relating to the subject of the Framework Agreement. Officers must seek advice and approval from Legal Services in the event that a Framework Agreement for more than four years is required.

34.3 The default for creating a call-off mechanism when creating a Framework Agreement should be a mini-competition. Proposals to resort to direct call- offs should be set out in the Procurement Strategy Report and approved by the Procurement Board or in the case of Personalised Contracts, by the relevant Chief Officer.

34.4 Officers must consider the impact of potentially closing the market in any sector to new suppliers during the period of the Framework Agreement and ensure that the benefits and length of the Framework Agreement are justified.

#### **35. Shortlisting and Exclusions**

35.1 Officers may introduce procedures for above threshold contracts aimed at reducing the number of bidders that it will invite to tender to a manageable number as part of the shortlisting process.

35.2

35.2 If a shortlist of potential bidders has to be drawn up in order to take forward a manageable number of bidders the criteria and reasons for shortlisting must be documented.

35.3 The shortlisting process must be open and transparent to all contractors and pre-determined selection criteria must be used.

- 35.4 The provisions of Rule ~~44~~ must be complied with when shortlisting.
- 35.5 The basis for both shortlisting and rejecting tenderers should be documented. These decisions must be based on factors that relate explicitly to the contractor's ability to deliver the contract.
- 35.6 The Council shall exclude a bidder from participation where a bidder has, or where the Council becomes aware, committed a criminal offence relating to fraud, corruption, terrorism, tax evasion, money laundering or such other offences as are prescribed in Regulation 57 (1) – (5).
- 35.7 The Council may exclude a bidder from participation where the bidder is found to be, or the Council becomes aware of the bidder becoming, bankrupt, guilty of professional misconduct, colluded with other bidders with a view to distorting competition and has shown significant deficiencies in the performance or a prior public contract or such other provisions as may be prescribed by Regulation 57 (8).
- 35.8 For full detail of the circumstances under which a bidder shall or may be excluded the Officer must obtain advice from Corporate Procurement.
- 35.9 These provisions will apply unless the bidder produces evidence that they have self-cleaned within the provisions of Regulation 57 (13).
- 35.10 Advice from Corporate Procurement should be sought before any bidder is excluded from the shortlist.

## 36. Invitations to Tender

- 36.1 Officers must ensure that the number of tenderers invited to participate in a tender exercise is sufficient to ensure genuine competition.
- 36.2 Where procurements are conducted following procedures prescribed under the Regulations, the minimum number of tenderers required to be invited to participate in a tender exercise to ensure genuine competition shall be:
- 36.2.1 five tender responses where the Restricted Procedure is proposed to be followed, and
- 36.2.2 three tender responses where the Negotiated Competitive Procedure with Negotiation or Competitive Dialogue procedures are proposed to be followed.
- 36.3 Officers may, following a pre-qualification exercise which results in fewer than the required minimum number of responses (as set out in Rule ~~34~~37.2 above) being selected, continue a procurement exercise with less than the minimum

number of tenderers referred to in Rule ~~34~~37.2 above, provided the number of tenderers invited is sufficient to ensure genuine competition. In any such case the advice of Corporate Procurement and where necessary, Legal Services must first be taken.

- 36.4 Candidates invited to tender must be given within an adequate period in which to prepare and submit a tender response consistent with the urgency of the procurement requirement, the level of complexity of the requirement and according to the industry norm.
- 36.5 Normally at least three weeks should be allowed for submission of tenders. For tenders above the EU Threshold, Officers must adhere to the EU tender minimum timescales.
- 36.6 The tender documentation must explain how information provided in the bidder's response/s will be treated with regard to any statutory requirements (e.g. Freedom of Information Act requests). If in doubt please seek advice from Corporate Procurement.
- 36.7 Council Officers should not amend the tender documentation once it has been issued. In exceptional circumstances it may be necessary to make amendments to tender documentation. Before making and publishing any amendments to tender documents Officers should consult with Corporate Procurement and obtain the advice of Legal Services.
- 36.8 Any amended tender documentation must be issued to all persons to whom the original documentation was sent.
- 36.9 Invitations to tender must include a statement that the Council does not bind itself to accept the lowest price tender or any other tender.
- 36.10 Bidders must be required to hold their tenders open and valid for acceptance by the Council for a minimum of 90 days from the date of opening.
- 36.11 The evaluation criteria and sub criteria must be disclosed in the Invitation to Tender documentation and any prequalification documentation
- 36.12 The contract terms and conditions must be included with the Invitation to Tender documents. These must be obtained from Corporate Procurement or Legal Services.

Every Invitation to Tender (ITT) or Invitation to Quote (ITQ) shall state the date and time by which it should be returned and where physical bids are invited, inform bidders that no tender will be received except in a plain sealed envelope which shall bear the word "Tender" followed by the subject to which it relates, but shall not bear any name or mark indicating the identity of the sender.

37.

### 37. Contract Documentation

37.1 Officers shall not spend money on goods, works or services without a proper contract being in place. The only valid contracts will be those which are created in accordance with these Rules.

37.2 With the exception of the Leader or (where authorised under the Council's Constitution), elected Members of the Council cannot procure or enter into contracts on behalf of the Council. Council contracts may only be entered into by Officers authorised in accordance with the Council's Officer Scheme of Delegation

37.3 All contracts made on behalf of the Council must be in writing and signed or sealed (as appropriate) at the end of the procurement and award process.

37.4 Officers must ensure that all the necessary permissions are in place (e.g. funding commitments, licences, and leases) before the contract is entered into. If in doubt Officers should consult Legal Services.

37.5 Officers must ensure that the terms and conditions of each contract are appropriate for the purpose. Except as provided below, Where applicable, the Council's standard terms and conditions, including any special conditions applicable, for the type and value of contract should always be used. If in any doubt, Officers must take advice from Corporate Procurement and where appropriate, Legal Services.

37.6 The Council acknowledges that with certain industries for example, within construction, ICT, finance or software licences, it is traditional for parties to contract on agreed industry standard terms and conditions, for example JCT, RIPA, -ICE. Where services are being procured for such services Officers may contract on such industry or Contractor's standard terms and conditions, subject to advice from Corporate Procurement and/or Legal Services, and in the case of construction contracts also from Capital Commissioning and Delivery if appropriate.

- 37.7 Where it is proposed that a form of contract other than the Council's standard contract is used for a particular procurement, Legal Services must be instructed to review and approve the proposed alternative form of contract or draft appropriate alternative contract terms and conditions.
- 37.8 No contract should be entered into on a contractor's (including supplier's and consultant's) terms and conditions without the prior approval of Corporate Procurement and where necessary, on the advice of Legal Services.

### 38. Pre-Tender Clarification

- 38.1 Officers may answer questions or provide information in response to requests from prospective bidders in relation to an ITT or Invitation to Quote. However, the selection process must be demonstrably fair to all participants. Accordingly, no bidder should be given information from which they may gain an unfair advantage over rival bidders who do not have access to that information.
- 38.2 A formal procedure for recording questions posed and responses sent must be in place and be used.
- 38.3 Questions of a complex technical or procedural nature must be notified to Corporate Procurement who may, if they deem it necessary, refer the issue to Legal Services.
- 38.4 Officers responsible for the procurement must set the date by which the bidders must submit questions and following which no further queries can will be accepted after such time. This must be clearly stated in the ITT.
- 38.5 Where questions are asked, the anonymised questions received and answers/~~responses~~information provided must be provided to all bidders at least six days before the final date for submission of tenders. If the information is not provided within this time frame then the time limit for receipt of tenders must be extended for a reasonable period.

~~39. Officers responsible for the procurement must set the date by which the bidders must submit questions and no further queries can be accepted after such time. This must be clearly stated in the ITT.~~

39.

### 39. Fraud Prevention



39.1 Every contract shall contain a condition permitting the Council to cancel the contract and recover from the contractor the amount of any loss resulting from such cancellation, should the contractor, his servant or agent:

39.1.1 offer, give or agree to give to anyone, any inducement or reward in respect of the relevant or any other Council contract (even if the contractor does not know what has been done); or

39.1.2 commit an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972; or

39.1.3 commit any fraud in connection with any Council contract, whether alone or in conjunction with Council members, Officers, contractors or employees.

#### **40. Insurance and bonds or other security**

40.1 Every contract for the carrying out of works or the provision of services shall require the contractor to take out and maintain Employers Liability, Public Liability and such other insurance policies as are deemed appropriate for the duration of the contract;

40.2 The contractor shall take out insurance for such a period as the Council's Insurance Team shall advise. Officers shall reserve ~~have~~ the right to check insurance certificates for this period.

40.3 Where the contractor has not taken out the required insurance certificates, the responsible Officer must notify the Council's Insurance team immediately.

40.4 Officers should seek advice from the Insurance team and Corporate Procurement to determine whether a performance bond, parent company guarantee (PCG) or other security will be required from the successful tenderer as a condition of the contract being awarded to such tenderer. Any such requirement shall be included in the ITT or otherwise advised to tenderers before the deadline for submission of tenders.

40.5 Where the Insurance team advises that a bond, PCG or other form of security is required Officers shall ensure that arrangements are in place for the provision of the bond, or such other security required, before the contract start date.

#### **41. Confidentiality**

41.1 Officers must ensure security and confidentiality of documentation supplied at all stages of a procurement exercise, including tender evaluation reports, working papers and minutes of meetings. The procuring Officer must ensure that he or she records in writing all minutes of meetings and decisions/actions taken.

41.2 Where a bidder's briefing is to be held to brief prospective bidders of a procurement, all bidders should be informed in advance that multiple bidders



shall be in attendance and that it is the responsibility of the representatives present to ensure that the identity of their organisation is kept confidential and more importantly details of their respective bids are not disclosed to other parties.

### 42. Freedom of Information and Data Protection

42.1 The Council has specific obligations under the Freedom of Information Act 2000 and Data Protection Acts regarding disclosure of information, and all tenderers must be notified that any documentation produced and provided during the procurement process may be subject to disclosure release under the Acts.

42.2 During tender processes, bidders must be informed that they should state if any of the information supplied by them is confidential or commercially sensitive or should not be disclosed in response to a request for information made to the Council. Bidders should state why they consider the information to be confidential or commercially sensitive. Any such information shall be identified in the contracts concluded between the Council and successful bidder. This will not guarantee that the information will not be disclosed but will be examined in the light of the exemptions provided in the Act.

### 43. Criteria and Evaluation

43.1 Before tendering any contract, Officers responsible for the procurement must decide upon the criteria and associated weighting on which tenders and quotations will be evaluated. All those who are invited to tender or quote must be notified of the evaluation criteria and weighting. These must be documented before the start of the procurement and set out in the advertisement or in the ITT (as appropriate).

43.2 Officers must treat selection and award criteria separately. Selection criteria are based on a bidder's capability to perform the contract and are only used at the pre-qualification to tender (PQQ) stage in a Restricted Procedure or other two (or more) stage tender exercise. Award criteria are used at the Invitation to Tender stage to determine which of the bids best satisfies the Council's requirements. These should be described in the tender documentation. Criteria used to select bidders should not be used or re-evaluated at the award stage.

43.3 The evaluation criteria must establish that the contract will be awarded to the bidder that submits ~~either the most economically advantageous tender or the lowest price tender (as appropriate).~~ assessed from the point of view of the Council. This may be on the basis of the price or cost, using a cost effectiveness approach, such as life-cycle costing, and may include the best price-quality ratio, assessed on the basis of criteria such as qualitative, environmental and/or social aspects linked to the subject-matter of the public contract in question. Such criteria may include, by way of example, quality, organisation, qualifications and experience of staff assigned to performing the contract, after sales service and

technical assistance. This should be made explicit in both the Invitation to Tender and any advertisement. Any sub-criteria must also be documented in the Invitation to Tender. Every contractor must be informed of the weightings attached to each criterion.

- 43.4 Evaluation criteria and weightings must be non-discriminatory and should include whole life cycle costs where appropriate.
- 43.5 Officers must ensure that the specification and evaluation criteria take into account the Council's strategic and policy priorities.
- 43.6 Officers must apply the criteria as set out in the ITT or contract notice when evaluating tender bids and shall not introduce any additional criteria or amend the weightings to tenders. Should it prove necessary to amend the criteria or weightings, all parties to whom the ITT was issued must be issued with the amended documentation before the deadline for submission of tenders and if necessary, the time for submission of tenders should be extended.
- 43.7 Officers should not include any Non-Commercial Considerations in the selection or award criteria.
- 43.8 Officers must ensure that experts or appropriately qualified or experienced Officers or consultants evaluate all tenders in accordance with the pre-determined evaluation criteria.
- 43.9 A full documented record must be made and kept of the selection process, recording relevant scores for each bidder and a clear statement as to how the final decision was reached. All such decisions must be communicated to unsuccessful bidders and are open to challenge.

#### **44. Use of Presentations and Site Visits in a Tender Process**

- 44.1 Save where the Negotiated-Competitive Procedure with Negotiation or Competitive Dialogue Procedures are used to conduct procurement, careful consideration should be given to the use of presentations and/or site visits within the tender process. There should be a clear understanding of the reason for the use of the presentation or visit and how it will contribute to the evaluation process. The documentation must clearly state what relevance and weighting presentations/site visits carry as part of the award criteria. If in doubt, officers should seek advice from Corporate Procurement and/or Legal Services.
- 44.2 The default position should be not to conduct site visits except where any of the location, activity undertaken, state of repair and suitability of the site will be important factors in the delivery of the service. In such cases Officers need to consider whether such criteria should be applied at the short listing stage. If a site visit is required, this must be declared as part of the evaluation criteria in the

tender documentation. The ITT should state clearly what issues will be evaluated, the criteria against which they will be evaluated and the scores and weighting to be applied. Alternatively site visits may be used as a verification exercise to verify criteria set out in the ITT.

- 44.3 Where a service is to be provided from Council premises and it is considered important that potential providers view the premises, all bidders must be invited to be present or be included in every site visit organised by the Council.

**PART D**

**AWARDING THE CONTRACT**

**45. Tender Submissions and Opening (Class C, D E and F Contracts)**

~~45.1 Subject to Rule 46.1 no tenders shall be accepted unless it complies with Rule 36.13. Every Invitation to Tender (ITT) or ITQ shall state that no tender will be considered unless it is returned in plain, sealed packaging which bears the word “tender” followed by the contract name and reference number, if applicable. The instructions shall clearly indicate that there must be no name or mark indicating the tenderers identity on the packaging.~~

45.1 Every ITT or ITQ must inform tenderers that all tenders must be addressed to the officers and address stated in the ITT or ITQ.

45.2 Tenders received must be date stamped and locked away until the specified time for their opening and a record of the tenders received must be signed for and logged in the tender record book.

45.3 Tenders must be opened at the same time as soon as possible after the date and time specified for the receipt of tenders. Electronic tenders may only be ~~received~~ opened via the Council’s electronic tendering system after the closure time has passed.

45.4 All tenders must be opened by the Security team and recorded in the required template and then handed over to the Officer responsible for the procurement.

45.5 All tenders received must:

45.5.1 Be opened in the presence of the Security team and where necessary or appropriate, a representative from Corporate Procurement, and

45.5.2 Be date stamped and signed by the Security team at the time of opening on the page containing the overall Contract Value, alternatively on the pages containing the price information where no overall value is quoted

45.5.3 Be logged in the tender record book.

**46. Receiving late tenders, irregular tenders or errors in tenders**

46.1 Where a tender has been received which is an irregular tender in that it does not fully comply with the instructions given in the ITT to bidders (e.g. not to have any identifying markings on the bid envelope or packaging), the Officer shall, prior to opening any of the tenders, report this to his/her Chief Officer

giving details of the irregular tender. The appropriate Chief Officer, with the prior approval of the Head of Legal Services may accept the irregular tender if s/he determines that the bidder has gained no unfair advantage from the irregularity and the tender process has not been compromised as a result.

46.2 Where a tender has been received which is deemed to be late (has passed the tender response deadline) the Officer shall prior to opening any of the tenders report this to his/her Chief Officer giving details surrounding the circumstances of the late tender. The Chief Officer with the prior approval of the Head of Legal Services may accept the late tender if they determine that:

46.2.1 the delay was caused by exceptional circumstances for which the bidder was not primarily responsible; and

46.2.2 the bidder has gained no unfair advantage from it being late and the tender process has not been compromised as a result.

46.3 The appropriate Chief Officer, with the prior approval of the Head of Legal Services may permit a bidder to correct an identified arithmetic or clerical error or omission that, in the opinion of the Chief Officer, is an obvious one and if they determine that the bidder has gained no unfair advantage from correcting the error. Any such corrections will be recorded on the tender file.

46.4 The Chief Officer of a procuring department may treat as irregular and may invalidate and reject a bid:

46.4.1 where it appears that the tenderer is in breach of the Regulations and/or these Rules;

46.4.2 where a bid is subject to any qualification, amendment or alteration which has been prohibited by the Council as part of the procurement exercise;

46.4.3 any amendment to the tender price is received after the tenders have been opened;

46.4.4 any tender from which the tender price has for some reason either been omitted or is otherwise not ascertainable;

46.5 The Chief Officer shall record in writing the reasons why each irregular or late tender has been accepted or rejected and sign and date the record

46.6 All tender related documentation must be stored and available for inspection in a secure location and must not be moved without the permission of Officers responsible for the procurement.

#### **47. Abnormally Low Tenders**

- 47.1 Officers shall require a bidder to explain prices and costs in their tender which appear to be abnormally low in relation to the works, supplies or services.
- 47.2 The Council shall assess the information provided by consulting with the tenderer.
- 47.3 Officers may only reject a tender where the evidence supplied does not satisfactorily account for the low level of price or costs proposed. Officers need to seek advice from Corporate Procurement as to specific explanations and evidence that may be considered.
- 47.4 The Council shall reject the tender where it has established that the tender is abnormally low because it does not comply with the environmental, social and labour law obligations.

#### **48. Post Tender Clarification**

- 48.1 Seeking post-tender clarification of a tender whether in writing or by way of a meeting is permitted only with the approval of Corporate Procurement and on the advice of Legal Services.
- 48.2 Post tender clarifications should not be used as opportunities to conduct post-tender negotiations. Post-tender negotiation means negotiations with any bidder after submission of a tender and before the award of the contract with a view to obtaining an adjustment in price, delivery or content. Such negotiations are prohibited under EU law.
- 48.3 Officers shall take into account the requirements of the Regulations and these Rules and consult Corporate Procurement before conducting any clarifications or refinements to any tender and related documentation.
- 48.4 Any post-tender clarifications must be conducted in line with the relevant EU Procedure and must not distort competition particularly with regard to price. They should be used only to clarify any aspect of a tender that is not clear.
- 48.5 Any clarification or discussions must be conducted by or in the presence of at least two Officers, one of whom must be from Corporate Procurement, on Council premises, and a detailed contemporaneous written record kept.
- 48.6 Where post-tender clarifications may result in a significant change to the specification (or contract terms) the contract must not be awarded but be re-tendered. Officers should consult Corporate Procurement and/or Legal Services in cases of uncertainty.

#### **49. Standstill Period & Challenge**

- 49.1 In the case of contracts subject to the full scope of the EU Regulations, which shall also include contracts subject to the Light Touch Regime, (Part A contracts) Officers must notify all bidders of the intended award of the contract and must allow a mandatory minimum standstill period of 10 calendar days (otherwise 15 days for non-electronic tenders) between notification of a proposed award and entering into a contractually binding agreement (Standstill Period).
- 49.2 Officers may not make an award of contract, nor make any commitment to award a contract, until the standstill period has expired. The standstill period must not commence until all internal approvals have been finalised.
- 49.3 Officers must notify all tenderers that submitted a bid of its decision in relation to the award of the contract. This must be done in writing by the quickest means of communication available, as soon as possible after the award decision has been made.
- 49.4 The notice referred to above must include:
- 49.4.1 details of ~~the~~ the award criteria
  - 49.4.2 the reason for the decision, including characteristics and (in the case of bidders only) the relative advantages of the winning bidder
  - 49.4.3 the score obtained by the unsuccessful bidder
  - 49.4.4 the score obtained by the successful bidder
  - 49.4.5 the name of the bidder to be awarded the contract
  - 49.4.6 the date on which the standstill period ends or before which the Council will not enter into the contract with the successful bidder
- 49.5 A notice of the nature and containing the detail referred to in Rule ~~46~~49.4 above must also be sent to all candidates i.e. those who applied to be invited to bid but who were not so invited. Such notice must also inform the candidates of the reason why they were unsuccessful but does not need to detail the relative advantages of the winning bid.
- 49.6 It is most important that any communication with the preferred bidder(s) does not lead such bidders to believe it constitutes a contract award or a conditional award. Corporate Procurement and Legal Services can advise on this.
- 49.7 The mandatory standstill period does not apply to below threshold procurements ~~or to procurements otherwise outside the full scope of the EU Directives e.g. Part B service contracts.~~
- 49.8 The mandatory standstill period applies for framework agreements only at the stage at which the framework agreement itself is awarded, but not during subsequent call-offs or mini-competitions within framework agreements. However, Officers should always consider applying a standstill for mini competitions for High Value Contracts.



49.9 In the event a challenge is made to the award of the contract, Legal Services and Corporate Procurement must be notified immediately and advice obtained.

## 50. Contract Award

50.1 No contract or Framework shall be awarded unless the award has first been approved by Cabinet/HWB or an Officer duly authorised under the Scheme of Delegation, as appropriate.

50.2 A contract may only be awarded where the appropriate budget holder has the funds in place to sustain the contract prior to award.

50.3 Every decision to award a contract or Framework must be in writing by a Cabinet/HWB minute or a Delegated Authority Decision Statement. The relevant Decision Statement must be supported by a report (“Contract Award Report”) signed by the relevant Chief Officer or other Officer authorised under the Scheme of Delegation (as the case may be) and, in the case of contracts with a Contract Value of £100,000 or more, agreed by the Chief Finance Officer and the Head of Legal Services or their nominated delegates. The Contract Award Report shall be submitted to Democratic Services for publication

50.4 The Contract Award Report shall set out the details of the procurement, as required in Regulation 84 (1) which shall include details of the subject matter and value of the contract or Framework, details of the tender(s), the criteria and weighting applied, the evaluation process followed, the results, and a recommendation as to the successful tenderer(s) to whom the Council proposes to award the contract or Framework and reasons why it/they were successful. In the case of EU procured contracts or Frameworks, all the requirements of - Regulation 84 (1) must be complied with.-

50.5 In the case of tenders above the EU thresholds, bidders must be notified in writing of the award in accordance with Rule ~~4946~~ above. Guidance may be sought from Corporate Procurement.

50.6 In the case of procurements where a standstill period is required to be observed, a letter “(Letter of Intention to Award)” must be written to the successful bidder advising them that following the evaluation of bids, the Council intends, subject to the standstill period elapsing without challenge, to award the contract to the bidder.

50.7 The Letter of Intention to Award must set out the main terms of the contract that will bind the parties including the duration, price, contract conditions, and other significant contract terms and documentation such as the specification



and tender response documents.

- 50.8 The Letter of Intention to Award must make it clear that the issuing of the Letter of Intention to Award is merely a statement of intention and does not equate to a firm offer to contract with the successful bidder as the Council still reserves the right not to award the contract.
- 50.9 Corporate Procurement must be notified immediately of any challenge to a procurement process in order that appropriate and conforming action may be taken.
- 50.10 Officers responsible for the procurement must submit a report and obtain the further approval of Cabinet/HWB/the Chief Officer prior to award when:
- 50.10.1 The contract which is the most economically advantageous solution, in accordance with the established tender evaluation criteria, is not being recommended for acceptance;
  - 50.10.2 Cabinet/HWB has chosen in advance to become involved in awarding the contract.
- 50.11 If at the completion of the tender process the final price falls within a higher band of the Approval Table, the contract should not be signed or sealed until the Officer / body designated to give approval for that higher band gives the requisite written approval.
- 50.12 If all the bids exceed the set budget, or none represent value for money there is no obligation to award the contract. In this situation Officers may abandon the procurement and notify all bidders. Officers must seek approval from authorising Officers named in the Approval Table before notifying any bidders.
- 50.13 If the bid that represents the most economically advantageous ~~or lowest price~~ tender comes in at a cost that exceeds the budget for the procurement, a report must be submitted to the relevant Chief Officer or Cabinet/HWB (as the case may be), informing them of this fact and the Chief Officer or Cabinet/HWB (as the case may be), shall decide whether sufficient additional funds should be released to award the contract or to authorise Officers to abandon the procurement. Officers shall not engage in post-tender negotiations with a view to altering the scope or nature of the specification as this will likely distort the competition.
- 50.14 If a bidder withdraws from the tender process before the contract is awarded, this must be confirmed in writing. If the withdrawing bidder had the highest score, the contract may be awarded to the bidder with the next highest score.

- 50.15 In the absence of any direction to the contrary from the Cabinet/HWB, contracts may be awarded by the Chief Officer or in accordance with the Scheme of Delegation as long as the necessary financial approval has been given by Corporate Finance.
- 50.16 After the tender evaluation process and any relevant standstill period has elapsed without any challenge, the contract may be awarded to the successful bidder.
- 50.17 Where the Standstill period has elapsed without any challenge being made, a letter (Letter of Award) must be written to the successful bidder advising them that the standstill period has elapsed without challenge and confirming the Council's intention to award the contract to the bidder.
- 50.18 The contract documentation to be signed by the successful bidder should accompany the Letter of Award.
- 50.19 Where the contract documentation is not immediately available for execution by the parties, the Letter of Award must confirm the main terms of the contract that will bind the parties as set out in the Letter of Intention to Award and the successful bidder shall be required as a condition of the Council entering into the contract with them, to confirm acceptance of the Council's offer to contract by signing and returning a signed copy of the Letter of Award accepting the Council's offer and agreeing to be bound by the terms stated in the Letter of Award (Letter of Acceptance). The signed Letter of Acceptance shall constitute a contract between the Council and the successful bidder until the formal contract documentation has been executed by all parties.

## **51. Debrief**

- 51.1 The procuring Officer shall, if requested in writing and provided a notice under Rule 4649.4 has not already been provided, within 15 days of receipt of such request, debrief in writing all those bidders who submitted a tender about the characteristics and relative advantages of the successful bidder.
- 51.2 This should normally include:
- 51.2.1 the criteria for the award of the contract (e.g. the scoring and assessment mechanisms);
  - 51.2.2 the reasons for the decision, including the characteristics and relative advantages of the successful tender.
  - 51.2.3 the name of the winner
  - 51.2.4 the winner's score
  - 51.2.5 the tenderer's own score;
  - 51.2.6 if relevant, an explanation as to why the tenderer did not meet the technical specifications of the procurement;

## 52. Contract Sealing/Signing

- 52.1 Chief Officers must ensure that a signed or sealed contract is in place and all pre-conditions have been complied with (such as provision of insurance certificates and DBS checks) before the goods are ordered or works or services begin. Where for matters of urgency it is necessary for the contractor to commence work without a signed contract being in place, the procuring Officer shall ensure that a Letter of Acceptance of the contract has been signed and returned by the successful bidder before the goods are ordered or works or services begin. Legal Services should be consulted before officers agree that the contractor can commence work without a formal contract being in place.
- 52.2 All contracts with a total contract value of £100,000 or more must be sealed by Legal Services.
- 52.3 The fixing of the Council's Seal must be witnessed by the Head of Legal Services or such other authorised Officer as s/he shall nominate. The seal must not be affixed without evidence of governance approval being in place.
- 52.4 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal.
- 52.5 In order for Legal Services to seal a contract, Officers responsible for the procurement must provide:
- 52.5.1 The Minute evidencing Cabinet/HWB approval and/or;
  - 52.5.2 A signed Delegated Authority Decision statement.
- 52.6 All contracts must be recorded on the Council's Contracts Register immediately after award. Officers are required to provide Corporate Procurement with an electronic copy of the signed contract and complete the Contract Register Form.
- 52.7 A Contract Award Notice must be placed by Corporate Procurement in the OJEU following the award of a contract procured under the Regulations within 48 days of such award.
- 52.7
- 52.8 Within a reasonable time of publishing a Contract Award Notice in OJEU Officers shall ensure that a notice is also published on Contract Finder which contains at least the following information:

52.8

- a. The name of the Contractor;
- b. The date on which the contract was entered into; and
- c. The value of the contract.

52.9 The requirements of 52.8 above shall also apply where a contract is awarded based on a framework agreement, i.e following a direct call off or a mini competition from or within a framework agreement.

52.10 Records of all procurement activity must be retained in accordance with the Council's Document Retention Policy in either electronic or hard-copy format as appropriate.

52.11 The Council's original copy of the sealed contract must be registered with and retained by Legal Services. Council Officers are required to retain a photocopy and/or scanned version for their own records and to ensure appropriate monitoring of the obligations placed upon the contractor.

52.12 Chief Officers must keep a register of contracts completed by signature (rather than by the Council's seal) and arrange their safekeeping on Council premises.

## PART E

### POST CONTRACT AWARD

#### 53. Contract Management and Monitoring

53.1 **All contracts must contain a Performance Monitoring schedule and contain a clear procedure for the resolution of disputes.**

53.2

53.2 The Chief Officer for the service area shall be ultimately responsible for ensuring that appropriate contractual, financial management and security measures are in place.

53.3 The Council's Finance department should be fully informed of the contact and banking details of the contractor (through Oracle if required) in order to issue payments.

#### 54. Managing Contracts

54.1 All contracts must have a named contract manager for the entirety of the contract who must be identified and recorded against the contract on the Council's contracts Register.

54.2 All contracts are to be subject to formal reviews between the Council's contract managing Officer and the contractor.

54.3 During the life of the contract the contract's managing Officer must monitor:

- 54.3.1 Performance
- 54.3.2 Compliance with specification and contract
- 54.3.3 Cost
- 54.3.4 Any value for money requirements
- 54.3.5 User satisfaction and risk management

#### 55. Risk Assessment & Contingency Planning

55.1 Contract managers are required to consider if there are any significant risks to key contracts which might adversely impact on contract cost or delivery. Such risks should be recorded on team/service/department risk registers as necessary and should indicate how the risks are being, or are proposed to be, managed to bring the risk to a level acceptable to the Council. This approach will make any key contracting risks visible and ensure they are managed in accordance with Risk Management policy.

55.2 Officers should seek advice and guidance on risk management from Corporate Procurement or the Council's Risk team.

55.3 The Council's Insurance team should be informed of the commencement of the contract and if applicable be provided with copies of a contractor's policy documents.

56.

56.

### 56. Monitoring Reports

56.1 The Chief Officer shall ensure that a report of all contracts approved by him/her or under the Officer Scheme of Delegation for that department shall be prepared and submitted to him/her quarterly. The report shall identify:

56.1.1 All contracts entered into during the monitoring period

56.1.2 An update of any risks

56.1.3 Any default notices issued during the monitoring period and throughout the life of the contract and

56.1.4 The expenditure made under the contract (including any extensions and variations) and

56.1.5 A budget status report on the contract.

56.2 The Procurement Board shall be entitled to call for and consider any monitoring report and make any recommendations it deems necessary for the future management of the contract to which the report refers.

### 57. Contract Extension

57.1 Extensions can only be made where:

57.1.1 there is budgetary provision; and

57.1.2 value for money can be clearly demonstrated; and

57.1.3 there is a provision stipulated in the Notice and/or original contract for an extension; or

57.1.4 no specific provision for extension exists in the contract and a waiver is granted in accordance with Rule 6. an exemption request (waiver) is made where no specific provision exists in the contract.

57.2 No contract subject to the Regulations may be extended unless the original OJEU Notice advertisement and the contract itself permit of the extension. It is not possible to extend the contract if an extension provision was not in place from the outset of the tendering process.

57.3 Officers must seek advice from Legal Services and Corporate Procurement before extending any contract. Legal Services will advise whether the extension can be made and draft all documentation in relation to the same.

57.4 No ~~further contract extension can be made where a contract has been extended to the full extent permitted under the contract conditions. Any 'extension' beyond this is a new contract and needs to be procured in accordance with these Rules unless a waiver is granted. with an extension value of £100,000 or more shall be extended without the approval of the Procurement Board and on the advice of the Head of Legal Services and the Chief Finance Officer.~~

57.5 Contract extensions shall ~~only be awarded by Officers with the requisite delegated authority (depending on Contract Value) in accordance with the Council's Scheme of Delegation. for the purpose of this Rule be treated as new contacts and shall thus only be awarded by Cabinet/HWB or Officers with the requisite delegated authority (depending on Contract Value) in accordance with the Council's Scheme of Delegation.~~

57.6 Every decision to extend a contract must be in writing by a Cabinet/HWB minute or a Delegated Authority Decision Statement signed by the Officer authorised under the Scheme of Delegation (as the case may be). ~~and agreed by the Chief Finance Officer and the Head of Legal Services or their nominated delegates.~~

57.7 All contract extensions must be registered and included with the original contract in the Council's Contract Register.

## 58. Variations

58.1 Once a contract has commenced, the terms should not be amended unless provided for within the contract and on the basis that both parties shall have agreed the variation.

58.2 Modifications to existing contracts are permitted without commencing a new procurement in the following circumstances:

(a) Where the modifications, irrespective of their monetary value, have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which may include price revision clauses, or options.

(b) For additional works, services or supplies by the original contractor, irrespective of their value, that have become necessary and were not included in the initial procurement where a change of contractor:\*

- (i) cannot be made for economic or technical reasons; or
- (ii) would cause significant inconvenience or substantial duplication of costs for the Council;

provided that any increase in price does not exceed 50% of the value of the original contract.

(c) Where all of the following conditions are fulfilled:\*

- (i) the need for modification has been brought about by circumstances which the Council acting diligently could not foresee;
- (ii) the modification does not alter the overall nature of the contract; and
- (iii) any increase in price is not higher than 50% of the value of the original contract or framework agreement.

*(\*Note: the Council must publish a Regulation 51 notice in the OJEU when a contract has been modified under these headings.)*

(d) Where a new contractor replaces the one which had initially been awarded the contract as a consequence of either:

- (i) an unequivocal review clause or option which is clear, precise and unequivocal (referred to above); or
- (iii) universal or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of the Regulations.

(e) Where the modifications, irrespective of their value, are not substantial.

A modification is considered to be substantial where one or more of the following conditions is met:

- (i) the modification renders the contract or the framework agreement materially different in character from the one initially concluded;
- (ii) the modification introduces conditions which, had they been part of the initial procurement procedure, would have allowed for the admission of other candidates than those initially selected or for the acceptance of a tender other than that originally accepted or would have attracted additional participants in the procurement procedure;



- (iii) the modification changes the economic balance of the contract or the framework agreement in favour of the contractor in a manner which was not provided for in the initial contract or framework agreement;
  - (iv) the modification extends the scope of the contract or framework agreement considerably;
  - (v) where a new contractor replaces the one to which the Council had initially awarded the contract in other cases than those envisaged above.
- (f) Where the value of the modification (on a cumulative basis) is below both of the following values:
- the relevant EU procurement thresholds; and
  - 10% of the initial contract value for service and supply contracts and below 15% of the initial contract value for works contracts. Where a modification falls outside of the above circumstances, a new procurement process is required.

~~No variation/amendment shall be made, the effect of which will be to award a new contract materially different in character from the original contract. This will occur:~~

~~Where it introduces conditions which, had they been part of the initial award procedure, would have allowed for the admission of bidders other than those initially admitted or would have allowed for the acceptance of a tender other than the one initially accepted.~~

~~When it extends the scope of the contract considerably to encompass services not initially covered.~~

~~When it changes the economic balance of the contract in favour of the contractor in a manner which was not provided for in the terms of the initial contract.~~

- 58.3 Price changes, which were not anticipated in the original contract, could amount to breach of the principles of equal treatment and transparency.
- 58.4 Annual price reviews (such as increasing by RIPX) are usually covered within the contract and do not need a separate variation agreement. If it is unclear whether this is the case in respect of any particular contract, Legal Services must be consulted.
- 58.5 Officers must seek advice from Legal Services and Corporate Procurement before varying any contract. Legal Services will advise whether the change can be made and draft all documentation in relation to the same.

58.6 No contract ~~with a Contract Value of £100,000 or more~~ shall be varied without the approval of the Procurement Board on the advice of the Head of Legal Services and the Chief Finance Officer, where the effect of the variation would be to add £100,000 or more to the Contract Value.

58.7 Contract variations shall only be made by Cabinet/HWB or Officers with the requisite delegated authority to award the original contract (as the case may be) in accordance with the Council's Scheme of Delegation.

58.8 Every decision to vary a contract must be in writing by a Cabinet/HWB minute or a Delegated Authority Decision Sheet signed by the Officer authorised under the Scheme of Delegation (as the case may be) and agreed by the Chief Finance Officer and the Head of Legal Services or their nominated delegates..

58.9 All contract variations must be registered and included with the original contract in the Council's Contract Register.

## **59 Novation, Assignment and Sub-Contracting**

59.1 No contract with a Contract Value of £100,000 or more shall be novated, assigned or sub-contracted without the express approval of the Head of Legal Services and the Chief Finance Officer.

59.2 Officers must seek advice from Legal Services and Corporate Procurement before novating, assigning or sub-contracting any contract. Legal Services will advise whether the transfer can be made and draft all documentation in relation to the same.

59.3 All requests regarding the change of parties to the contract must be referred to Legal Services.

## **60 Changes in Law**

All contracts with duration longer than 3 years should make provision to address how changes in the law that affect the contract will be addressed. If the law changes mid-way through the contract and it significantly affects the contract, Legal Services should be consulted immediately.

## 61 Final Reports

- 61.1 Officers responsible for the monitoring of the contract must ensure that all final reporting obligations have been adhered to and the contractor has also complied with the same.
- 61.2 Officers shall prepare Final Accounts reports for all contracts with a Contract Value in excess of £100,000. Such Final report shall, as a minimum requirement, include the following details:
- 61.2.1 An overview of the objectives of the contract and the extent to which they had been met
  - 61.2.2 Planned start and finish dates
  - 61.2.3 Actual start and finish dates
  - 61.2.4 Reasons for any difference
  - 61.2.5 Declared/estimated Contract Value on award of contract
  - 61.2.6 Actual contract cost
  - 61.2.7 Reasons for any difference
  - 61.2.8 Any lessons learned
- 61.3 Final reports shall also be submitted, in the case of High Value Contracts~~contracts with a Contract Value of £100,000 or more~~, to the Procurement Board, and for all other contracts, to the Chief Officer, within three (3) months of the contract end date.

## 62 Funding Withdrawal

- 62.1 Funding received by the Council and being utilised for the provision of goods, services or works may in extreme circumstances be withdrawn at short notice. Officers must inform their Chief Officer and/or the Procurement Board (as appropriate) immediately in these circumstances.

## 63 Expiry Date

- 63.1 Where the contract is to run its full course and reach the expiry date, Officers must review the contract and take all necessary steps to consider the re-tender of the same at least nine months prior to the expiry.

## 64 Early Termination

- 64.1 Legal Services and the Chief Finance Officer must be consulted in all instances where early termination or suspension of a contract is being proposed.

64.2 Irrespective of the reason for the termination of the contract, the final authorisation to suspend or terminate a contract can only be given by Cabinet/HWB or the commissioning Chief Officer or other Officer (as the case may be) with the level of authority to award contracts of the value of the contract which is to be terminated as identified in Rule 28.

64.3 Approval for early termination of a contract shall not be given unless a report setting out:

64.3.1 The full circumstances leading to such termination

64.3.2 The financial implications of such termination, including penalties or compensation liabilities, and

64.3.3 The legal implications of such termination

64.3.4 Proposals for ongoing service provision

64.3.5 Continued funding capability following the termination

64.3.6 Potential re-procurement requirements

64.3.7 Has been prepared and submitted to the Officer or body making the decision.

64.4 Except in an Emergency or where specific departmental processes have been approved for early termination or suspension (e.g. in Safeguarding cases) no High Value Contract shall be terminated or suspended without the express approval of the Procurement Board.

## **65 Document Retention**

65.1 All Officers must follow the Council's Corporate Retention Guidelines.

65.2 All signed contracts must be retained for a period of 6 years from the execution date. Sealed contracts must be retained for a period of 12 yrs.

65.3 A contractor that has been delivering a contract that requires the contractor to keep records for the Council shall be required, in respect of the information which they hold, to either:

65.3.1 Keep the records themselves, and allowing the Council to have access upon request; or

65.3.2 Give the records to the Council.

65.4 Once the contract has been awarded, Officers:

65.4.1 Must keep the successful bidder's documents for at least six (6) years after the end of the contract.

65.4.2 Must keep the unsuccessful bidders' documents for at least twelve (12) months from when they have been notified.

65.4.3 Must keep all documents, scores and notes from the tender process (including any records from market testing), for at least twelve (12) months from the contract was amended.

## SCHEDULE

### Definitions and Interpretation

#### Definitions

**'Approval Table'** – means the table set out in Rule 28 detailing the Contract Value bands together with the level of approval required.

**'Cabinet'** – means the Council's Cabinet established under Section 11 of the Local Government Act 2000

**"Chief Finance Officer"** – means the Officer so designated as the being responsible for the administration of the Council's Chief Finance Officer financial affairs as provided for -under S151 of the Local Government Act 1977.

**'Chief Officer'** – means the Chief Executive or a Corporate Director as defined in the Constitution

**'Constitution'** - means the Council's Constitution

**'Contract'** – means any contract, agreement or order for the carrying out of work, the provision of services or the supply of goods or materials to or for the Council, whether by the purchase, lease, rental or hire purchase, including the provision of services to the public on the Council's land or premises or a concession contract. It shall not include contracts for the employment of staff or the sale, purchase, lease or license of land or buildings.

**Contract Award Notice** - means the notice required to be published in OJEU indicating that a relevant contract has been awarded by the Council pursuant to the Regulations

**Contract Award Report** – means the formal written report detailing the procurement conducted as provided for in Rule 50.3, containing the details required by Rule 50.4.

**Contract Notice** - means the notice required to be published in OJEU indicating that the Council intends commencing a relevant procurement pursuant to the Regulations.

**'Contract Value'** - means and shall be measured as the aggregate amount the Council expects to pay the Contractor over the total duration of the contract (including any inflation uplift and any extension period) or where the Council is not paying a contractor directly, the Contract Value will be the financial benefit that the

contractor will receive over the duration of the contract. If there is any doubt in respect of such a valuation, Corporate Procurement must be consulted.

**‘Corporate Procurement’** – means the Council’s procurement function provided by Elevate East London LLP (Elevate)

**‘Council’** – means the London Borough of Barking & Dagenham

**‘Council Company’** - means any company or organisation owned or controlled by the Council.

**‘Cross-border interest’** – means the potential interest that providers in other EU Member States may have in tendering for a contract.

**‘Elevate’** - means Elevate East London LLP

**“Emergency”** - means a serious unforeseen event, situation or occurrence that happens unexpectedly, and which is likely to cause immediate danger to the Council, its residents or property if immediate action is not taken. The Emergency must be urgent and unforeseen – for example, natural disasters such as flooding, fires or bombing, or financial or operational, such as a current supplier ceasing to operate leaving residents without critical services.

**‘Framework Agreement’** - means any agreement between the Council or the Council and one or more contracting authorities and/or one or more contractors, the purpose of which is to establish the terms governing contracts to be awarded to contractors during a given period, in particular with regard to price, and where appropriate, the quantity envisaged

**‘Forward Plan’** - means the Council’s Forward Plan

**“High Value Contract”** means either a contract with a one-off expenditure or annual value of £100,000 per annum or a contract which exceeds the thresholds set out in the Regulations.~~a contract with an aggregate Contract Value of at least £200,000 (over a period of three years) or with a one-off or annual contract value (spend) of at least £100,000, whichever is lower.~~

**“HWB”** – means the Council’s Health and Well-Being Board as established and set out in Article 5 and Section D of Part C the Council’s Constitution.

**‘Invitation to Tender’ or ‘ITT’** – means an invitation to prospective bidders to submit tenders for contracts with a Contract Value of over £50,000.-~~invitation to~~

**‘Invitation to Quote’ or ‘ITQ’** – means an invitation to prospective bidders to submit quotes for contracts with a Contract Value of £5,000 and over to under £50,000,

**'Key decision'** - means a decision which is likely to: a) involve significant expenditure or savings and/or b) have a significant effect on the community, as further detailed in the Council's Constitution.

**"Legal Services"** means the Council's in-house Legal Services department

**"Light Touch Regime"** – means the regime prescribed and covered by Part 2, Chapter 3, Section 7 of the Public Contract Regulations 2015 for social and other specific services.

**'Non-commercial considerations'** – means the considerations fully defined in Section 17 of the Local Government Act 1988 (as amended);

**'Officer(s)'** - means a Chief Officer or other Council Officer(s), and Officers of a Council Company or other person designated and authorised by a Chief Officer or Council Company to procure or enter into a contract on behalf of the Council and "Officers" shall be read accordingly.

**'Officer Scheme of Delegation'** – means the corporate /departmental financial authorisation scheme of delegation for officers set out in the Council's Financial Rules as the same may be amended from time to time by the Chief Finance Officer.

**"PAS91"** – means the industry standard PQQ for works entitled 'Construction Pre-qualification Questionnaires'.

**"Personalised Contract"** – means a contract that relates to the social, educational or welfare/care needs of a child or an individual adult.

**"PIN"** – means a Prior Information Notice. A PIN can be published before the procurement starts, when a requirement is above EU thresholds, and makes it possible to reduce the time needed to complete the competition.

**'PQQ'** – means a Pre-Qualification Questionnaire.

**'Procurement Board'** - means the Council's corporate Procurement Board

**'Procurement Documents'** means any document produced or referred to by the contracting authority to describe or determine elements of the procurement or the procedure, including the contract notice, the prior information notice where it is used as a means of calling for competition, the technical specifications, the descriptive document, proposed conditions of contract, formats for the presentation of documents by candidates and tenderers, information on generally applicable obligations and any additional documents.



**‘Procurement Strategy’** - means the procurement strategy set out in Rule 23

**Procurement Strategy Report** - means the formal written report provided for in Rule 24 setting out the Procurement Strategy for the proposed procurement

**‘Regulations’** - means the Public Contract Regulations ~~2006~~2015, as amended.

**‘Scheme of Delegation’** - means the corporate scheme of delegation set out in Part C of the Council’s Constitution and/or the Officer Scheme of Delegation as appropriate.

**‘Standardised Pre-Qualification Questionnaire’** – means the document prescribed by Crown Commercial Services.

**‘Suitability Assessment Questions’** – means a question which relates to information or evidence which the contracting authority requires for the purpose of assessing whether candidates meet requirements or minimum standards of suitability, capability, legal status or financial standing.

**‘Urgent Action’** - means an Urgent Action taken by the Chief Executive under the provisions of Article 1 in the Constitution.

### **Interpretation**

In these Rules, except where the context otherwise requires:

1. the masculine includes the feminine and vice-versa;
2. the singular includes the plural and vice-versa;
3. a reference in these Rules to any clause, sub-clause, paragraph, Schedule or annex is, except where it is expressly stated to the contrary, a reference to such clause, sub-clause, paragraph, Schedule or annex of these Rules;
4. any reference to these Rules or to any other document shall include any permitted variation, amendment or supplement to such document;
5. Any reference to any enactment, order, regulation, code, guidance or other similar instrument shall be construed as a reference to the enactment, order, regulation, code, guidance or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted;
6. A reference to a person includes firms, partnerships and corporations and their successors and permitted assignees or transferees;

7. Headings are for convenience of reference only;
8. Words preceding include, includes, including and included shall be construed without limitation by the words which follow those words;
9. The Schedules to these Rules form part of these Rules;

Key Changes to Contract Rules			
Section / Rule No	Subject	Nature of Revision	Regulation
Section A 4	<b>General Application of the Rules</b> Exempt Agreements	Addition to this section to introduce two new exempt areas which will fall outside of the scope of Contract Rules; one for in-house contracts and joint co-operation between contracting authorities and another exclusion for Subscription/ membership fees.	12
Section B 12.3.1	<b>Before Commencing a Procurement Exercise</b> Division into Lots	Addition to this section to introduce the new requirement for the Council, when deciding not to divide a contract into lots, to explain why this decision has been taken. This provision has been included within the Regulations as part of the drive to encourage SME participation.	46
19	Market Research and Consultation with Third Parties	Clarifies the circumstances under which Officers can use market research in a procurement exercise and the procedures which must be complied with to ensure that there is a level playing field when a candidate or tenderer has already been involved in the pre-procurement stage.	40 & 41
22	Pre-procurement Notices	Addition in this section clarifying the use of Prior Information Notices (PINs) as a call for competition.	48
Section C Rule 28	<b>The Procurement Process</b> Approval Table	Updating the Approval Table to advise on some of the new requirements contained within the Public Contract Regulations 2015 i.e advertise on contracts finder. Also the addition of a new column for 'Documents Required' so that Officers are clear what documents are required for each threshold.  Also an update to 28.4 detailing the requirement to advertise on Contracts Finder for procurements above £25,000.	110
30	Electronic Communication and Access to Documents	New rule setting out the requirement for all communication and information exchange relating to and during a procurement to be carried out by electronic means.	22

		Also information relating to the requirement for electronic versions of the procurement documents to be made available immediately on publication of the OJEU Contract Notice.	53
31	Pre-Qualification Questionnaire (PQQ)	<p>Details the new ban on the use of a selection (PQQ) stage for under threshold contracts and where Officers will be using a PQQ the requirement to use the Standardised PQQ as prescribed by the CCS.</p> <p>Clarification on the requirements which the Council can impose when determining whether a tenderer possess the necessary economic and financial capacity to perform the contract. This includes the requirement which states that the maximum turnover requirements that the Council can request is twice the Contract Value, unless due to particular risks a greater turnover requirement is justified.</p>	<p>111</p> <p>58 (7) – (10)</p>
32	EU Procurement Procedures	<p>The addition of new procedures available under the Public Contracts Regulations 2015:</p> <ol style="list-style-type: none"> <li>1. Competitive Procedure with negotiation which has replaced the Negotiated Procedure;</li> <li>2. Innovation Partnership, a brand new procedure under the Regulations; and</li> <li>3. Negotiated Procedure without prior publication.</li> </ol> <p>There is also an explanation of the requirements for below EU threshold procurements and procurements for Social, Education, Health and Other Specific Services, now referred to as the new Light Touch Regime and covered within Schedule 3 of the Public Contracts Regulations 2015, which has replaced the old 'Part B Service' regime.</p>	<p>29</p> <p>31</p> <p>32</p> <p>74-76</p>
36	Shortlisting and Exclusions	<p>A new section setting out an explanation of the mandatory and discretionary grounds for exclusion of a candidate from a procurement process.</p> <p>Inclusion of self cleaning mechanism where a supplier may provide evidence that, despite the existence of mandatory or discretionary grounds, it can</p>	<p>57</p> <p>57(13)</p>

		demonstrate its reliability and that it has taken compensatory measures to prevent the issue happening again.	
38.6	Contract Documentation	Clarification around when the use of when industry standard and Contractor's standard terms and conditions may be permitted.	N/A
44.3	Criteria and Evaluation	Clarification within this rule that all contract awards must now be made to the 'most economically advantageous tender' (MEAT) assessed from the point of view of the Council.	67
<b>Section D</b> 48	<b>Awarding the Contract</b> Abnormally Low Tenders	Sets out the requirement for the Council to demand an explanation where a tender appears to be abnormally low, and states that bids may only be rejected where this explanation is unsatisfactory.	69
50.1	Standstill Period & Challenge	Inclusion within the rule, upon the guidance issued from the Crown Commercial Services (CCS), that contracts which are subject to the Light Touch Regime must also observe a standstill period.	N/A
<b>Section E</b> 58	<b>Post Contract Award</b> Contract Extensions	Further clarification has been provided on contract extensions and the award of them.	N/A
59	Variations	Provides clarification contained within the Regulations on the extent to which a contract can be amended after award without the need to re-advertise in OJEU. This now reflects previous case law, particularly the <i>Presstext</i> case.	72
<b>Schedule</b>	<b>Definitions and Interpretation</b>	Update and addition of the following definitions: <ol style="list-style-type: none"> <li>1. High Value Contract</li> <li>2. Light Touch Regime</li> <li>3. PIN</li> <li>4. Procurement Documents</li> <li>5. Standardised Pre-Qualifications Questionnaire</li> <li>6. Suitability Assessment Questions</li> </ol>	

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## Part 3 – Officer Scheme of Delegation

### Chapter 1 – Functions which are Delegated to Officers

This section sets out those functions which have been delegated to officers.

#### 1. Powers of delegation

- 1.1 Non-executive functions are delegated to officers from the Assembly, Committees and Sub-Committees under section 101 of the Local Government Act 1972 and, in the case of licensing and gambling, under section 10 of the Licensing Act 2003 or section 154 of the Gambling Act 2005.
- 1.2 Executive functions are delegated to officers by the Leader or from the Cabinet under section 14 of the Local Government Act 2000.
- 1.3 Functions are delegated to the Director of Public Health under section 73A of the National Health Service Act 2006, as amended by the Health and Social Care Act 2012.

#### 2. Basis of Delegation

- 2.1 Where the Assembly, a Committee or Sub-Committee, the Leader or the Cabinet has delegated a function to an officer, the person or body making the delegation may at any time resume responsibility for the function either in respect of a particular matter or generally, and so may exercise the function despite the delegation.
  - 2.2 An officer to whom a power is delegated may refer the matter to the Chief Executive, or to the person or body making the delegation, for their determination. It will be appropriate for the officer to refer a matter:
    - (a) To the Chief Executive where the determination of the matter raises issues of corporate priorities or the co-ordination of the discharge of various functions of the Authority;
    - (b) To the person or body making the delegation where the determination of the matter is likely to be particularly controversial or raises issues of policy which it would be appropriate for Councillors to determine; or could, by its scale or complexity, expose the Council to major corporate risk which cannot be contained within Directorate Budgets.
  - 2.3 In exercising any delegated powers, officers should ensure that decisions are consistent with Council policy, within approved spending limits, and in the best interests of residents and the Council as a whole. Councillors should be informed/consulted as appropriate depending on the nature and sensitivity of the decision.
- #### 3. Conflicts of Interest
- 3.1 Every officer is responsible for identifying whether he/she has any conflict of interest in any matter which is under consideration, actual or perceived, within the Authority, and for notifying the Authority (including under section 117 of the Local Government Act 1972).

- 3.2 Where an officer has a conflict of interest in any matter, he/she shall not participate in that matter in his/her capacity as an officer except with the prior approval of his/her line manager, the Monitoring Officer or the Chief Executive.
- 3.3 Where the Chief Executive is unable to act on a matter because of a conflict of interest, the matter shall be discharged by the Monitoring Officer. Where the Monitoring Officer is unable to act the matter shall be discharged by the Deputy Monitoring Officer.
- 3.4 Where a Director is unable to act on a matter because of a conflict of interest, the Chief Executive shall discharge the matter him/herself or allocate the matter to another officer.
- 3.5 Where the Monitoring Officer is unable to act on a matter in his/her statutory capacity under section 5 of the Local Government and Housing Act 1989, the matter shall be discharged by the Deputy Monitoring Officer.
- 3.6 Where the Monitoring Officer is unable to act on a matter in relation to Member conduct, the matter shall be discharged by the person appointed by the Monitoring Officer for this purpose under section 82A of the Local Government Act 2000.
- 3.7 Where any other officer is unable to act on a matter, that officer's line manager or the Chief Executive may arrange for another officer to discharge the matter.

#### **4. Context for the Exercise of Functions**

- 4.1 All matters not reserved to the Assembly, to the Cabinet, or to a Committee for decision are delegated to the appropriate Chief Officer subject to the General Conditions and Limitations below and the Contract and Financial Rules. Each Chief Officer, in making decisions under this scheme, is required to do so within the internal scheme of management for their own directorate / service area. This will include appropriate monitoring arrangements and dissemination of information both internally and externally to the Council.

#### **General Conditions and Limitations**

- 4.2 In taking any decision, each officer must ensure that they have acted in a considered, well informed and defensible manner which is in the best interests of the Council and its residents. The more significant the decision, the greater the obligation to demonstrate that appropriate consideration has been given to the way the decision was made.
- 4.3 As a general rule all decisions will need to be made with a full understanding of Council policy relating to the decision, an awareness of relevant legal obligations including equality requirements, and a clear assessment of the impact of the decision on those affected. Decisions will also need to be consistent with the Council's Budget strategy and will need to be effectively risk assessed.
- 4.4 The obligation to ensure that these issues are properly understood rests with decision makers. Where doubt exists advice must be taken from those officers who are professionally qualified to give advice, such as the Council's Monitoring Officer and Chief Financial Officer. Officers must not commit the



Council to a course of action which will entail financial obligations beyond those approved by the Council.

- 4.5 Where the decision is politically sensitive or likely to affect significant numbers of residents, decision makers are under a general obligation to consult with those from whom the decision is delegated and Members where appropriate. Where realistic choices exist and where good practice would suggest it to be appropriate, public consultation should be undertaken after consulting with appropriate Members.
- 4.6 No officer, other than the ~~Head of Legal and Democratic Services~~Director of Law and Governance, shall authorise or institute any legal proceedings or process or instruct legal agents or Counsel without the prior written consent of the ~~Head of Legal and Democratic Services~~Director of Law and Governance.
- 4.7 The powers delegated to officers shall not include the power to take a Key Decision, except in the following cases:
- (a) in relation to contracts with a value between £200,000 - £500,000 in accordance with the Council's Contract Rules;
  - (b) where the Cabinet or HWBB has specifically delegated the responsibility to an officer;
  - (c) ~~save that where~~ the Chief Executive considers that may take a Key Decision where the matter is so urgent that it is appropriate to take a Key Decision, in line with the Urgent Action provisions in Part 2, Chapter 16 of this Constitution or other emergency provisions within the Constitution.
- 4.8 This Scheme of Delegation is set out, as far as possible, in terms of broad areas of responsibility rather than in terms of specific statutory powers. The Chief Executive shall be responsible for co-ordinating the discharge of the Council's functions between the various officers.
- 4.9 The Chief Executive may allocate or re-allocate responsibility for functions between officers as necessary for the effective discharge of those functions or to cover absence of particular officers.
- 4.10 Where an officer is going to be absent for a period of time, the appropriate line manager may re-allocate responsibility for that officer's functions as necessary to ensure the effective discharge of those functions during the officer's absence. Where the Chief Executive is going to be absent for a period of time then responsibility for the Chief Executive's functions, as necessary, shall be allocated to the designated Deputy Chief Executive, unless otherwise allocated by the Chief Executive. Where the designated Deputy Chief Executive is also absent the Chief Executive functions shall be discharged by the Directors collectively, or by such officer as they shall determine for this purpose.
- 4.11 Where a function is delegated to a Divisional Director, it shall also be exercisable by the Chief Executive and ~~Chief Officers/Directors~~relevant Strategic Director. Where a function is delegated to a ~~Chief Officer/Strategic Director or~~ Director it shall also be exercisable by the Chief Executive, except the functions of Monitoring Officer and Chief Financial Officer. Where a function is stated to be specifically delegated to a particular officer, that

function shall not be exercised by any other officer except in accordance with this Scheme.

**Areas of Responsibility**

4.12 The areas of responsibility of Chief Officers and other specified officers are set out in sections 5 to 12 below and, where appropriate, shall include the areas of responsibility of each officer within his/her directorate / service area.

**5. All Chief Officers**

5.1 All Chief Officers are authorised to exercise the following powers and duties of the Council in respect of services under their control with the exception of those matters reserved to Member-level meetings or other specific provisions within this Constitution:

- (a) take all lawful action consistent with overall Council policy to deliver agreed strategy plans and policy within their area of responsibility and within approved Budgets, service plans, contract and financial procedural Rules, the general obligation to act in the best interests of residents and the Council and to achieve value for money;
- (b) incur expenditure on the Council's behalf within the sums approved by the Assembly and in line with the Financial Regulations and Rules;
- (c) procure goods and services consistent with the Council's Contract Rules;
- (d) deal with the invitation and acceptance of tenders within the limits set out in the Contracts Rules;
- (e) submission of bids for funding in consultation with the relevant Cabinet Member where this does not imply an ongoing commitment to the Council when the funding ends, requires match funding that cannot be met within Directorate Budgets or could, by its scale or complexity expose the Council to major corporate risks which cannot be contained within Directorate Budgets;
- (f) approve the following, within any parameters prescribed in the Council's Contract, Financial or other Rules or policies:
  - (i) write-off of irrecoverable debts
  - (ii) virements between budgets
  - (iii) compensation claims from residents, businesses and contractors
  - (iv) financial settlements in Court actions, in consultation with the Council's authorised legal representative and the Chief Executive, when considered to be in the best interests of the Council to do so
  - (v) the award of settlements arising from Ombudsmen recommendations
  - (vi) disposal of or writing-off of assets
- (g) service or placing of any necessary statutory or other notices;

- (h) after consultation with the Head of Legal and Democratic Services Director of Law and Governance, authorising the institution, defence or appearance in criminal or civil proceedings in relation to any legislation which they are responsible for monitoring, enforcing or otherwise implementing on behalf of the Council;
- (i) deal with all staffing and management issues and arrangements (except those reserved to the Assembly) in line with the Council's strategic management arrangements and staffing policies, on the advice of the Divisional Director of Human Resources and Organisational Development Council's lead officer for Human Resources issues (the Director of Law and Governance);
- (j) Issuing licences;
- (k) Enforcing byelaws.

## 6. The Chief Executive (Head of Paid Service)

- 6.1 With the exception of those matters reserved to Member-level meetings or other specific provisions within this Constitution, the Chief Executive shall:
- (a) exercise overall corporate, commercial and operational management responsibility, including performance monitoring and assessment and the efficiency programme of the Council;
  - (b) be the Council's principal adviser on all matters of policy;
  - (c) in exceptional circumstances, such as a civil emergency, during a void in political leadership or to maintain the efficient and effective governance of the Council, take any decision on behalf of the Council (after consultation with the Leader where feasible);
  - (d) exercise overall responsibility for promoting the community leadership role of the Council with Government Departments and other agencies, and other national, regional and local authorities;
  - (e) exercise overall responsibility for all employment matters for all staff (except those reserved to member-level meetings) including disciplinary, grievances, job evaluation, selection for redundancy where there is no appeal against dismissal, appeals in respect of gradings, appeals in respect of harassment and bullying, refusal of retaining employees beyond retirement age, injury allowances, discretionary early retirements, efficiency retirements, discretionary death grants (in cases where employees are not married), early payment of preserved benefits, and all matters relating to restructuring/ reorganisation except those reserved to the JNC Salaries and Conditions Panel.
  - (f) determine the settlement of employment matters in the best legal and financial interests of the Authority, having taken appropriate advice from the Chief Financial Officer, the Head of Legal and Democratic Services Director of Law and Governance and the lead officer for Human Resources Divisional Director of Human Resources and Organisational Development;

- (g) nominate ~~Corporate Directors or Divisional Directors~~Chief Officers, as appropriate, to hear appeals against first and second written warnings on the grounds of misconduct, sickness absence and capability, and grievance appeals; and first stage appeals against final written warnings.
- (h) be responsible for securing implementation of the Council's decisions within the agreed Policy Framework to ensure the overall effectiveness of the Council's services;
- (i) Investigate disciplinary matters, with the involvement of an independent person, against the Monitoring Officer and Chief Financial Officer;
- (j) be responsible for determining ~~Emergency Planning and Management Services~~Civil Contingency services, with operational responsibility for the provision of these services being delegated to the ~~Head of Public Protection~~Strategic Director of Service Development and Integration as deputy to the Chief Executive in relation to this matter;
- (k) appoint a Proper Officer for the purpose of any statutory function which is not covered by this Scheme;
- (l) be responsible for setting the strategic management arrangements for the Council and for the allocation of roles to Directors other than those which are statutorily prescribed.

7. ~~The Chief Executive shall also have overall responsibility for matters within the remit of the following areas:~~

- 7. ~~Legal and Democratic Services, incorporating electoral services, member development and members' support.~~
- 7. ~~Finance, including corporate and strategic finance, audit and anti-fraud, treasury management, risk and insurance, asset and commercial services, contracts, programmes and business improvement.~~
- 7. ~~Human Resources and Organisational Development, including employee relations and recruitment, business support, change and strategy, health and safety, staff wellbeing and learning and development.~~

7. **Strategic Director of Service Development and Integration ~~Corporate Director of Adult and Community Services~~**

7.1 With the exception of those matters reserved to Member-level meetings or other specific provisions within this Constitution, the ~~Corporate Director of Adult and Community Services~~Strategic Director of Service Development and Integration shall be responsible for all matters within the remit of the following areas:

- (a) Adult Social Care, including learning disabilities, care assessment and planning and intensive support
- (b) Strategic Commissioning and Partnerships, including integration commissioning, community safety, adult safeguarding and civil protection
- (c) Culture and Sport, including leisure, heritage and libraries

- (d) ~~Environmental Services, including parking services, street enforcement, highways, fleet and passenger transport, regulatory services (housing and licensing), waste management and recycling, grounds maintenance, street lighting, street trading, road safety and the Learning Centre~~
- (d) Public Health, including the following (some of which are statutory responsibilities of the Director of Public Health):
  - (i) Developing and maintaining the Joint Strategic Needs Assessment for the Council.
  - (ii) Supporting and advising the Health and Wellbeing Board.
  - (iii) Developing and maintaining a Public Health Plan.
  - (iv) Meeting the Council's obligations for liaison with and support to the Health Protection Agency.
  - (v) Providing public health leadership, advice and information to the public as required by the Health Act 2006.
  - (vi) Preparing and publishing an annual report on public health in Barking and Dagenham.
  - (vii) Discharging the responsibility for co-operation and joint working in relation to public health within Barking & Dagenham on behalf of the Council.
  - (viii) Discharging the responsibilities for social care research and information in relation to public health and well-being.
  - (ix) Overseeing the responsibilities of the Council for liaison with voluntary sector social care and health organisations.
  - (x) Authorising Patient Group Directions in the exercise of the Council's new public health functions under the National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013.

7.2 The Strategic Director of Service Development and Integration has also been designated as the Deputy Chief Executive.

**8. Strategic Director of Customer, Commercial and Service Delivery**

8.1 With the exception of those matters reserved to Member-level meetings or other specific provisions within this Constitution, the Strategic Director of Customer, Commercial and Service Delivery shall be responsible for all matters within the remit of the following areas:

- (a) Environmental services, waste management and recycling, grounds maintenance and road safety
- (b) Parking services, street enforcement, highways, fleet and passenger transport, regulatory services (housing and licensing), street lighting and street trading;

- (c) Housing and Neighbourhood functions, including allocations, landlord and tenancy services management, caretaking, housing repairs and maintenance, travellers, tenant participation and sheltered housing;
- (d) Joint venture and service delivery arrangements with Elevate East London;
- (e) Client responsibilities for Information technology (IT);
- (f) Transactional HR services, including payroll and recruitment.

**9. Strategic Director of Finance and Investment**

9.1 With the exception of those matters reserved to Member-level meetings or other specific provisions within this Constitution, the Strategic Director of Finance and Investment shall be responsible for all matters within the remit of the following areas:

- (a) Corporate and strategic finance, treasury management, investments, the capital programme, Council Tax, revenues and benefits and debt recovery;
- (b) Audit and anti-fraud, risk management and insurance, assets and commercial services;
- (c) Corporate strategy, performance and programmes, organisational development and contracts;
- (d) Strategic HR services, including learning and development, occupational health, safety and wellbeing, employment policies and procedures and equalities and diversity in employment.
- (e) The Council's Pension Fund.

9.2 The Strategic Director of Finance and Investment shall also have authority to:

- (a) determine applications for mandatory and discretionary non-domestic rate relief and discretionary housing benefit in accordance with the approved scheme;
- (b) determine appeals in relation to applications for Council Tax discretionary relief in accordance with the approved scheme;
- (c) sign-off all statutory financial returns, except those reserved to the Assembly or Cabinet.



## 10. Strategic Director of Growth and Homes

10.1 With the exception of those matters reserved to Member-level meetings or other specific provisions within this Constitution, the Strategic Director of Growth and Homes shall be responsible for all matters within the remit of the following areas:

- (a) Regeneration, including the Estate Renewal programme;
- (b) Housing Strategy, including housing advice;
- (c) Capital Delivery;
- (d) Employment and Skills;
- (e) Planning and Development Management.

## 11. Corporate Director of Children's Services

11.1 With the exception of those matters reserved to Member-level meetings or other specific provisions within this Constitution, the Corporate Director of Children's Services shall be responsible for all matters within the remit of the following areas:

- (a) Children's Social Care and Complex Needs, including children in care placements, children with disabilities and educational psychology.
- (b) Education, Youth and Childcare, including school estate and admissions, the Adult College, early years, integrated youth services and engagement and school improvement.
- (c) Children's Safeguarding, Early Intervention and Commissioning, including quality, safeguarding and reviews, traded services (with schools) and troubled families.

11.2 The Corporate Director of Children's Services shall also be responsible for the appointment of parent governor representatives to the Children's Services Select Committee, in accordance with The Parent Governor Representatives (England) Regulations 2001.

## 12. Director of Housing

~~12. With the exception of those matters reserved to Member-level meetings or other specific provisions within this Constitution, the Director of Housing shall be responsible for all matters within the remit of the following areas:~~

- ~~12. Housing Strategy, including housing advice~~
- ~~12. Housing and Neighbourhood functions, including allocations, landlord and tenancy services management, caretaking, housing repairs and maintenance, travellers, tenant participation and sheltered housing~~

## 12. Director of Growth

~~12. With the exception of those matters reserved to Member-level meetings or other specific provisions within this Constitution, the Director of Growth shall be responsible for all matters within the remit of the following areas:~~

- ~~12. Regeneration, including the Estate Renewal programme~~
- ~~12. Capital Delivery~~
- ~~12. Employment and Skills~~
- ~~12. Planning and Development Management~~
- 12. Chief Finance Officer**
- ~~12. The Chief Finance Officer shall have authority to:~~
  - ~~12. exercise corporate Council functions in relation to financial services, including revenues and benefits, the Council's fraud strategy and associated arrangements, debt recovery, treasury management, insurance and associated risk management, internal audit and the Local Government Pension Scheme;~~
  - ~~12. client manage of the joint venture arrangements with Elevate East London;~~
  - ~~12. determine applications for mandatory and discretionary non-domestic rate relief and discretionary housing benefit in accordance with the approved scheme;~~
  - ~~12. sign-off all statutory financial returns, except those reserved to the Assembly or Cabinet.~~
- 12. Director of Law and Governance~~Head of Legal and Democratic Services~~**
- 12.1 With the exception of those matters reserved to Member-level meetings or other specific provisions within this Constitution, the Director of Law and Governance shall be responsible for all matters within the remit of the following areas:
  - (a) Legal and Democratic Services, incorporating electoral services, member development and members' support;
  - (b) Employee Relations and Organisational Design.
- 12.2 ~~The Head of Legal and Democratic Services~~Director of Law and Governance shall have authority to:
  - (a) take any action to implement any decision taken by or on behalf of the Council, including the signature or service of statutory and other notices and any document;
  - (b) institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Authority or in any case where he/she considers that such action is necessary to protect the Authority's interests;
  - (c) instruct counsel, solicitors or other experts for legal proceedings, public inquiries, or other matters involving the Authority;
  - (d) enter objections to any proposal affecting the Authority, the Authority's area or the inhabitants of the Authority's area.



### 13. Detailed Scheme of Management

- 13.1 Each Chief Officer ~~and/or Divisional Director/Head of Service~~, in making decisions under the above scheme, is required to do so within the internal scheme of management for their own directorate / service area.

### 14. Recording, Implementing and Accounting for Decisions

- 14.1 The Openness of Local Government Bodies Regulations 2014 require a written record to be made of any decision that has been delegated to an officer under a specific express authorisation, or under a general authorisation where the effect of the decision is to:

- (a) grant a permission or licence;
- (b) affect the rights of an individual; or
- (c) award a contract or incur expenditure which, in either case, materially affects the Council's financial position.

- 14.2 The written record referred to in Rule ~~18~~14.1 above must be produced as soon as reasonably practicable after the decision has been made and must contain the following information:

- (a) the date the decision was taken;
- (b) a record of the decision taken, along with the reasons for the decision;
- (c) details of alternative options, if any, considered and rejected; and
- (d) where the decision has been delegated under a specific express authorisation, the names of any Member of the Council who has declared a conflict of interest in relation to the decision.

- 14.3 The written record of the decision, together with any background papers, must be made available for inspection by members of the public as soon as reasonably practicable after the decision has been made:

- (a) at all reasonable hours at the Civic Offices;
- (b) on the Council's website,
- (c) by such other means that the Council considers appropriate.

- 14.4 The written record of the decision must be retained and made available for public inspection for at least six years. Any background papers referred to by the decision-maker should be retained and made available for public inspection for at least four years. The relevant retention period will begin with the date on which the decision, to which the written record and any background papers relates, was made.

- 14.5 Nothing in the above Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence, or, information that, in the opinion of the Monitoring Officer can be defined as exempt, as set out in Part 2, Chapter 17 of the Constitution.

- 14.6 Each Officer is responsible for ensuring that any decision which they take is properly recorded in line with the provisions of Rules ~~18~~14.1 to ~~18~~14.5 above, and that the record of that decision is available to other Officers, to Members and to the public as required by statute and this Constitution, particularly if the decision relates to a change in policy or practice, or a financial commitment.
- 14.7 The Openness of Local Government Bodies Regulations 2014 state that a person who has custody of a document which is required to be made available for inspection by members of the public will commit an offence if, without reasonable excuse, that person:
- (a) intentionally obstructs any person exercising a right conferred by the Regulations to inspect written records and background papers; or
  - (b) refuses any request made under the Regulations to provide written records or background papers.
- 14.8 Every Officer is responsible for ensuring that any decision which he/she takes is implemented in accordance with that decision.
- 14.9 Every Officer is accountable for each decision which he/she takes and may be called to provide an explanation of his/her reasons for the decision and account for its implementation to other Officers, Members and statutory regulators.

## Part 5 – Codes and Protocols

### Chapter 6 - Protocol on filming, [recording / live transmission webcasting](#), photography and the use of social media at Council meetings

#### 1. Introduction

1.1 The Council welcomes the filming, photography and the use of social media at its meetings as a means of reporting on its proceedings because this helps to make the Council more transparent and accountable to the local community.

[1.2 The Council has also made provision within several of its meeting rooms at Barking Town Hall for recording/live transmission, commonly known as webcasting, of meetings that are open to the public \(see section 7 of this protocol for further details\)](#)

[1.23 However, t](#)The overriding objective [of this protocol](#) must be the effective running of the meetings and it is important, therefore, that the proceedings of any meetings are not disrupted by filming, photography or the use of media tools by members of the press, the public, Councillors or officers. This is not a legal issue – just a question of judgment about what is and is not appropriate.

[1.34](#) Under the Council's Constitution, the Chair of a meeting has authority to deal with issues relating to the conduct of those in attendance to ensure the orderly conduct of the meeting and the efficient despatch of business.

[1.5 The overriding provision within this Chapter is that filming, photography and the use of social media is subject to the restrictions that apply to any item of Council business which considers confidential or exempt information, as defined by Section 100A of the Local Government Act 1972. In such circumstances, no filming, recording, transmitting or photography will be permitted while the confidential or exempt information is being considered.](#)

#### 2. Use of mobile phones at meetings

2.1 Mobile phones may be used to film or take photographs at meetings. Anyone seeking to use a mobile phone in such a manner should refer to sections 5, 6 and 7 of this protocol.

2.2 Mobile phones may be used to access and use social media applications in line with sections 3 and 4 of this protocol.

2.3 Mobile phones must be switched to a “silent” mode during a meeting to avoid any disruption being caused to proceedings. The use of a mobile phone to either make or receive calls must be undertaken outside the room in which a meeting is taking place.

#### 3. Use of Social Media by the public and press at meetings

3.1 There will be no restrictions placed on members of the press or public using Twitter, blogs or Facebook when attending meetings, provided that their actions do not affect the conduct of the meeting [and/or interfere with the audio system](#).

#### 4. Use of Social Media by Councillors when at meetings

- 4.1 Councillors are in a different position to members of the public and their actions affect the reputation of the Council. Councillors who are members of a committee have an obligation to pay close attention to the proceedings and demonstrate that they are playing an active part. This is in addition to the general point of showing respect and courtesy to other participants.
- 4.2 Care should be taken in using social media during meetings and the use avoided in particular during quasi-judicial meetings such as the Development Control Board and Licensing and Regulatory Board, as evidence of use of texting or social media by committee members could lead to a risk of complaints and/or appeals.
- 4.3 As a general rule, Councillors should avoid the following:
- (i) Accessing social media sites through a live feed to make personal comment on other individuals;
  - (ii) Taking and sending or posting electronic images of a meeting;
  - (iii) Extended and unreasonable periods of use that suggest that insufficient attention is being paid to the meeting.

#### 5. Filming and/or Photography at meetings

- 5.1 Members of the press and public wishing to film or photograph the proceedings of a meeting should contact the Council's Communications Team at [press@lbbd.gov.uk](mailto:press@lbbd.gov.uk) at least 24 hours before the meeting. The Chair of the meeting will then be consulted and his/her agreement sought to any request made. If permission to film or take photographs during a meeting is denied the reasons for refusal will be given.
- 5.2 The Communications Team will advise anyone making a request to film or photograph the proceedings members of the press and public of the following:
- (i) Whether the meeting concerned is subject to the Council's own recording / live transmission, in which case an additional request to film would most likely be refused;
  - (ii) Any filming, recording or photography must take place from positions in the Council Chamber or Committee Rooms that have been approved by the Chair of the meeting. This must be agreed before the meeting commences in order to ensure the view of members, officers, public and media representatives is not obstructed;
  - (iii) The use of flash photography or additional lighting may be allowed provided it has been discussed prior to the meeting and agreement reached to ensure that it will not disrupt proceedings. and
  - ~~(iv) If, at any time during the meeting, the Chair feels the filming or photography is disrupting the meeting in any way the operator of the equipment will be required to stop. Anyone undertaking filming,~~

~~recording or photography must comply with any requests made by the Chair of the meeting;~~

5.3 Members of the press and public must agree to ensure that any film or photographs will not be edited in a way that could lead to misinterpretation of the proceedings. This includes refraining from editing the views being expressed in a way that may ridicule or show a lack of respect towards those being filmed or photographed.

5.4 Members of the press and public must agree to share the film or photographs in their original and unedited form with the Council's Communications Team on request.

5.5 To comply with the Data Protection Act 1998, the Council must be satisfied that the consent of parents or guardians has been sought before filming any children or young people who may be in attendance at a meeting.

## **6. Announcement of Filming, and/or Photography at meetings**

6.1 The Chair will announce at the beginning of the meeting ~~that if any pre-agreed~~ filming or photography ~~will be~~ undertaken.

6.2 The Chair will ask any members of the public whether or not they agree to be filmed or photographed. This will be done on an 'opt-in' rather than an 'opt-out' basis to ensure individuals do not feel pressurised. Individuals who enter a meeting after the Chair has asked the question of those present will be deemed as having consented to being filmed or photographed unless they indicate otherwise, in which case the Chair shall direct them to the appropriate area.

6.3 ~~The Chair will direct anyone not wishing to be filmed or photographed to seating that shall not be covered by the cameras. Anyone seated in the public gallery or anyone attending the meeting to speak will have the opportunity to express their wish not to be filmed or photographed and to be guided to seating areas away from the area being filmed or photographed. If a member of the public is in attendance to speak at the meeting and prefers not to be filmed or photographed, their wish will take precedence.~~

6.4 At all times the wishes of those who choose not to be involved will take precedence [Councillors and officers are excluded from this provision in accordance with the Openness of Local Government Bodies Regulations 2014].

6.5 If the Chair is of the opinion that the filming or photography is disrupting the meeting in any way or any pre-meeting agreement has been breached, the operator of the equipment will be required to stop.

6.6 If the operator of the equipment refuses to stop recording when requested to do so, the Chair will ask the person to leave the meeting. If the person recording refuses to leave then the Chair may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption. These will be in line with disorderly conduct procedures set out in the Constitution.

- 6.7 Anyone asked to leave a meeting because they have refused to comply with the Chair's requests may be refused permission to film or photograph meetings in the future.
- 6.8 The Chair has a right to withdraw any consent to film or photograph at any time during the meeting. [The Chair also has the discretion to request the termination or suspension of any live transmission if he/she is of the view that continuing would prejudice the proceedings of the meeting. This would include:](#)

- [\(i\) Public disturbance;](#)
- [\(ii\) Exclusion of the public and press.](#)

## **7. Exclusion of the press and public from meetings**

- 7.1 The press and public may only be excluded from a meeting in respect of business relating to confidential or exempt information if a resolution is passed under Section 100A of the Local Government Act 1972.
- 7.2 The press and public will be told about the nature of the exclusion relating to the business to be discussed. No filming, [recording](#) or photography will be permitted during this exclusion.
- 7.3 [With the exception of Council equipment](#), all cameras, recording and sound equipment must be removed from the meeting room at any meeting where the press and public have been excluded under Section 100A of the Local Government Act 1972.

## **[8. Archiving of Webcasts](#)**

- [8.1 Subject to 8.2 below, all webcasts will be available to view via the Council's website for a period of 12 months.](#)
- [8.2 The Monitoring Officer may remove all or part of the content of a webcast from the Council's website if he/she considers that it is, or is likely to be, in breach of any statutory provision or common law doctrine, for example Data Protection and Human Rights legislation, or provision relating to confidential or exempt information.](#)

## Extract from Part 2, Chapter 4 (The Assembly) of the Constitution

### 9. Members' Questions

#### Questions without notice

- 9.1 Any Member may ask the Leader, a Cabinet Member or the Chair of a Committee any question without notice upon an item of report or recommendation of the Cabinet or Committee concerned, immediately following the presentation of that matter.

#### Questions With Notice

- 9.2 Written notice of any questions relating to matters not on the agenda must be received by the Chief Executive by no later than noon on the Wednesday ~~Friday~~ of the week before the Assembly meeting. ~~All questions must indicate the name of the Councillor asking the question at the time that the written notice of the question is provided.~~ Any Councillor may submit a maximum of two questions, either directly him/herself or via the Group Secretary.
- 9.3 The Chief Executive may reject a written question if, in his/her opinion:
- (a) it is of a vexatious or derogatory nature or otherwise considered improper or inappropriate;
  - (b) is contrary to any provision of any code, protocol, legal requirement or rule of the Council;
  - (c) it does not relate to the business of the Council;
  - (d) it is substantially the same as another written question previously submitted under this process and considered at the Assembly within the previous twelve months.
- 9.4 Where the Chief Executive rejects a written question on any of the above grounds, he/she shall inform the Chair and the Councillor who submitted the question as soon as possible. Prior to determining whether to accept or reject a question, the Chief Executive may seek clarification or propose alternative wording to the Councillor who submitted the question.
- 9.5 Wherever possible, answers will be given at the meeting by the appropriate Councillor (usually the relevant Cabinet Member or Leader). In the event that it is not possible to do so, a written response will be sent to all Councillors as soon as possible.
- 9.6 In the event that the Councillor who submitted the question is not present at the Assembly meeting, the question will be withdrawn.
- 9.7 Any questions withdrawn as indicated above, or withdrawn at the request of the Councillor who submitted the question, either before or during the meeting, may not be resubmitted to the Assembly within a period of six months. This condition will be waived where the Councillor, or a colleague on their behalf, has notified the Chief Executive by 5.00pm on the day of the meeting of their



inability to attend due to their ill health or other reason accepted by the Chief Executive.

- 9.8 Where a Councillor wishes to exercise the right under Section 71(5) of the Local Government and Housing Act 1989 to ask a question of Councillors or officers involved (as Member, Director or Council's representative) in connection with Local Authorities' Interest in Companies, he/she should give notice in writing to the Chief Executive at least seven clear working days before the Assembly meeting at which this matter is to be submitted to enable a response to be given at the meeting.
- 9.9 After the initial answer, the Councillor who submitted the question may ask one supplementary question arising directly out of the initial question or answer, without notice, and the person who answered the initial question shall respond to the supplementary question wherever possible. There shall be no further debate on the issue.
- 9.10 Any questions which are not dealt with by the close of the meeting will be responded to in writing by the appropriate Councillor before the next meeting.

## **10. Motions With Notice**

- 10.1 Written notice of any motions must be received by the Chief Executive by no later than 4.00pm on the Wednesday two weeks before the meeting, except in respect of a vote of no confidence in the Leader of the Council for which the process in paragraph 13 applies.
- 10.2 A notice of motion must relate to a matter which affects the Council or its area and must relate to a matter in respect of which the Council has a relevant function. There is no limit on the number of motions that a Councillor may submit but the notice of motion must be submitted either by the Councillor who is proposing the motion or via the Group Secretary.
- 10.3 A notice of motion may be in more than one part and contain more than one recommendation, but must all relate to the same subject matter.
- 10.4 The Chief Executive may reject a notice of motion if, in his/her opinion:
- (a) it is of a vexatious or derogatory nature or otherwise considered improper or inappropriate;
  - (b) is contrary to any provision of any code, protocol, legal requirement or rule of the Council;
  - (c) it does not relate to the business of the Council;
  - (d) is substantially the same as another motion already considered at the Assembly within the previous twelve months.
- 10.5 Where the Chief Executive rejects a notice of motion on any of the above grounds, he/she shall inform the Chair and the Councillor who submitted the notice of motion as soon as possible. Prior to determining whether to accept or reject a motion, the Chief Executive may seek clarification or propose alternative wording to the Councillor who submitted the motion.



## COUNCIL CONSTITUTION – SCHEDULE OF AMENDMENTS

February 2016

AMENDMENT	REASON	ASSEMBLY APPROVAL REQUIRED?
<p><b>Part 2, Chapter 4 – The Assembly</b></p> <p>Revisions to (i) the Questions With Notice deadline and submission arrangements, and (ii) the Motions With Notice submission arrangements.</p> <p>See Appendix E of “Council Constitution - Amendments to the Contract Rules and Other Changes” report to Assembly, 24 February 2016 for further information.</p>	<p>To assist in administration of Questions process and strengthen controls.</p>	<p>Yes</p>
<p><b>Part 2, Chapter 6 – The Cabinet</b></p> <p>Inclusion of the following at paragraph 2.1 (xvii):  “Appointing the Discretionary Business Rate Relief Appeal Panel which shall consist of three Cabinet Members, one of whom shall be the Cabinet Member for Finance, to determine appeals against decisions in respect of applications for Discretionary Business Rate Relief.”</p>	<p>To implement decision of Cabinet by Minute 29, 21 July 2015.</p>	<p>No. Monitoring Officer implemented ‘to give effect to any decisions of the Council’ in accordance with paragraph 2.1(a) of Part 7 of the Constitution.</p>
<p><b>Part 2, Chapter 8 – Scrutiny, Select Committees and Call-In</b></p> <p>Amendment of paragraph 2.2 (b) to correct cross-referencing from section 6 to section 7.</p>	<p>Correction of drafting error</p>	<p>No. Monitoring Officer implemented as a ‘minor amendment’.</p>

<p><b>Part 2, Chapter 16 – Decision Making</b></p> <p>Inclusion of following at paragraph 3.9: The Council shall publish details of all executive decisions taken by officers above the threshold of £200,000, in accordance with The Openness of Local Government Bodies Regulations 2014.</p>	<p>To reflect new legislative requirements.</p>	<p>No. Monitoring Officer implemented as ‘change in the law’ in accordance with paragraph 2.1(b) of Part 7 of the Constitution.</p>
<p><b>Part 3, Chapters 1 and 2 – Officer Scheme of Delegation</b></p> <p>Chapter 1 - Inclusion of delegation from Assembly to Corporate Director of Children’s Services regarding the responsibility for appointing Parent Governor representatives.</p> <p>Chapter 2 – Inclusion of Monitoring Officer’s responsibility as Proper Officer regarding Section 36 of the Freedom Of Information Act 2000.</p> <p>Chapters 1 and 2 - Amendment of Officer Scheme of Delegation to reflect the revised senior management responsibilities and new / revised posts (Note: these changes have been applied throughout the Constitution).</p> <p>See Appendix C of “Council Constitution - Amendments to the Contract Rules and Other Changes” report to Assembly, 24 February 2016 for further information.</p>	<p>To ensure full compliance with relevant regulations.</p> <p>To reflect statutory responsibility.</p> <p>To reflect changes to senior management structure.</p>	<p>Yes</p> <p>No. Monitoring Officer updates in accordance with paragraph 2.1(d) of Part 7 of the Constitution.</p>
<p><b>Part 4, Chapter 1 – Contract Rules</b></p> <p>Major review of rules to:</p> <ul style="list-style-type: none"> <li>i) Take account of recent legislative changes and best practice;</li> <li>ii) Ensure they reflect changes in approach to procurement, thereby achieving benefits for local economic and social wellbeing; and</li> <li>iii) Enhance governance to reduce risk of abuse.</li> </ul>	<p>To implement enhancements to the current rules in addition to legislative changes.</p>	<p>Yes</p>

<p>See Appendices A and B of “Council Constitution - Amendments to the Contract Rules and Other Changes” report to Assembly, 24 February 2016 for further information.</p>		
<p><b>Part 5, Chapter 1 – Councillors’ Code of Conduct</b></p> <p>Inclusion of new paragraph 5.3 as follows:  “With effect from February 2016, there will be a requirement for Councillors to be subject to a Disclosure and Barring Service (DBS) check in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and the Protection of Freedoms Act 2012. The DBS certificate must be provided to the Monitoring Officer within 28 days of the issue date.”</p>	<p>To give effect to new arrangements proposed via the Labour Group.</p>	<p>Yes</p>
<p><b>Part 5, Chapter 6 – Protocol on filming etc. at Council meetings</b></p> <p>Inclusion of relevant clauses and conditions regarding the arrangements for recording / live transmission (webcasting).</p> <p>See Appendix D of “Council Constitution - Amendments to the Contract Rules and Other Changes” report to Assembly, 24 February 2016 for further information.</p>	<p>To approve new rules following the introduction of webcasting facilities.</p>	<p>Yes</p>

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## ASSEMBLY

24 February 2016

<b>Title:</b> Motions	
<b>Report of the Chief Executive</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> No
<b>Report Author:</b> Leanna McPherson, Democratic Services Officer	<b>Contact Details:</b> Tel: 020 8227 2852 E-mail: <a href="mailto:leanna.mcpherson@lbbd.gov.uk">leanna.mcpherson@lbbd.gov.uk</a>
<b>Accountable Divisional Director:</b> Fiona Taylor, Director of Law and Governance	
<b>Accountable Director:</b> Chris Naylor, Chief Executive	
<p><b>Summary</b></p> <p>In accordance with paragraph 10 of Part 2, Chapter 4 of the Council Constitution, motions and amendments to motions on issues directly affecting the borough may be submitted to the Assembly to be debated and voted on.</p> <p>Four motions have been received in accordance with the Council's procedure rules and are attached as <b>Appendices A – D</b>.</p> <p>The deadline for amendments to the motions is noon on Friday 19 February 2016.</p> <p>For information, attached at <b>Appendix E</b> is the relevant extract from the Council's Constitution relating to the procedure for dealing with Motions With Notice.</p>	
<p><b>Recommendation(s)</b></p> <p>The Assembly is asked to debate and vote on the motions and any amendments proposed.</p>	

**Public Background Papers Used in the Preparation of the Report:** None

**List of appendices:**

**Appendix A** – Notice of Motion: Daesh

**Appendix B** – Notice of Motion: Trade Union Bill

**Appendix C** – Notice of Motion: Right to Buy for Housing Association Tenants

**Appendix D** – Notice of Motion: Tax Avoidance

**Appendix E** – Extract from the Council Constitution, Paragraphs 10, 11 and 12 of Part 2, Chapter 4 – The Assembly

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### **Notice of Motion: Daesh**

Councillor Ashraf has submitted the following motion:

“This Council notes that:

- The ‘Prevent’ Duty’, which is part of the Counter Terrorism and Security Act 2015 states that we and other local authorities have a duty to support people who are vulnerable to being drawn into terrorism or supporting extremism.
- The group which operates in Syria and Iraq refers to itself as ‘the Islamic State’, and is also known as ISIS and ISIL in the UK.
- In the Middle East and in several countries including Canada, France, Australia and increasingly in the UK, the Arabic term ‘Daesh’ is used instead.
- The term Daesh has negative connotations, meaning one who crushes something underfoot or one who sows discord.

This Council believes that:

- The organisation that refers to itself as ‘the Islamic State’ is not Islamic, nor is it a state.
- Referring to this group as ‘the Islamic State’ helps to legitimise its poisonous propaganda campaign which is enticing vulnerable people to travel to Syria to join their group.
- This is contrary to the Prevent duty and the work undertaken by this Council in the development and implementation of a Prevent Strategy.

This Council therefore resolves to:

- Refer to this evil organisation as Daesh instead of Islamic State or ISIS / ISIL in all Prevent literature; and calls on other local authorities to officially use the term Daesh.”

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### **Notice of Motion: Trade Union Bill**

Councillor Ogungbose has submitted the following motion:

“This Council is alarmed at the way in which the Conservative Government’s Trade Union Bill seeks to tear up the collaboration between employers and trade union members, and the potential impact this will have on the Council, as well as many other workplaces across our borough.

In its current form, the Bill is nothing short of an ideologically driven attack on the fundamental rights and freedoms of workers. It is also deliberately designed to dramatically reduce the funding to the main Party in opposition to the Government.

This Council recognises the positive contribution that trade unions and trade union members make in our workplace. We value their commitment to the delivery of good quality public services in Barking and Dagenham, especially in these challenging economic times for local authorities.

The Bill proposes a number of divisive measures that threaten workplace democracy. These include: very high thresholds for industrial ballots and even higher thresholds in certain public services; permitting the use of agency labour to substitute for striking workers; reductions in trade union facility time; a requirement for union members to ‘opt in’ to their union’s political fund every 5 years and the withdrawal of ‘check off’ union contributions in the public sector.

This Council therefore calls on the Government to scrap the Trade Union Bill and all associated regulation/secondary legislation and resolves to:

- Continue to offer the check-off service to all members of staff in Barking and Dagenham, in spite of Government attempts to stop it. If this is not legally possible, to come up with a local plan to enable alternative methods of payment.
- Support the continuation of trade union facility time and seek to continue, as far as possible, its own locally agreed industrial relations strategy.
- Support the Leader of the Council in writing to the Secretary of State making it clear that local Government will not be dictated to by Whitehall, particularly with regards to check-off and facility time.
- Clearly reaffirm Barking and Dagenham’s proud history of trade unionism and to allow employees’ representation to flourish in hard times – not to demonise workers as this Government is currently choosing to do.”

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### **Notice of Motion: Right to Buy for Housing Association Tenants**

Councillor Young has submitted the following motion:

“This Council notes:

- the new Government’s proposal to extend the Right to Buy to Housing Association tenants, to be paid for by selling off the most expensive Council Housing stock;
- with alarm the shortage of affordable rented homes in Barking and Dagenham with many thousands on our council’s housing waiting list and is very concerned that the current government plans risk making matters far worse.
- the recent LGA “First 100 Days” campaign which highlighted there are 1.7 million households on waiting lists for affordable housing across England and that more than 3.4 million adults between 20 and 34 live with their parents;
- that a recent opinion poll showed that just 16% of the public believed that extending Right to Buy to housing association tenants would be the most useful way of tackling the affordability crisis; the public’s top choice was to help housing associations or councils to build more affordable homes, selected by 46% of the public;
- A report from June 2015 shows that there could be a funding gap of over £1 billion to pay for the scheme.

Council opposes the forced sell off of council housing to pay for this plan and is concerned that the Government also:

- Fails to address the situation for many local authorities which no longer have any housing stock to sell as they have transferred theirs to housing associations;
- Fails to address the situation in areas of high housing demand where there are often few suitable sites to build replacement social housing stock;
- Fails to recognise that this means housing associations will simply be trying to catch up with replacing homes rather than building affordable housing to give more people homes they need

Council notes that even the Conservative Mayor of London has said he did not want to see councils “deprived at a rapid rate of their housing stock” if more homes were not being built to replace them.

Council also notes that there are existing routes for housing association tenants to own their own properties – some Housing Association tenants already have the Right to Acquire.

Council resolves:

- to work with other neighbouring authorities and housing associations to oppose in principle the current government proposals and to work alongside them to find a more viable solution;
- to write to our local MP's asking to support the Council's position; to speak up in parliament for more social housing and not less and to push for a genuine "one for one" replacement but not at the cost of losing more council housing."

### Notice of Motion: Tax Avoidance

Councillor Young has submitted the following motion:

“This Council recognises:

1. The growing awareness of tax avoidance and tax evasion (together termed tax abuse in this motion) and their impact in recent years;
2. The importance of curtailing and eventually eliminating tax abuse in the local economy of Barking and Dagenham if a sound market economy is to be created in which all traders, whether locally or nationally based, can compete on a level playing field to provide the goods and services that our community needs;
3. The wider impact of tax abuse on our national economy, where the gap between tax income collected by our national government and that which would be due if tax law was complied with as parliament intended is not less than £35 billion a year in the estimate of HM Revenue & Customs and may be substantially higher in the estimate of others and that this tax gap does, inevitably impact upon the level of income available to this authority to undertake its work in our local communities;
4. The impact of tax abuse internationally and in particular its cost to developing countries (many of which have close relationships with persons living in our communities) who as a result of tax abuse by multinational corporations are estimated to lose sums greater than the total world aid budget to this activity each year with consequent impact on our relationships with those communities;
5. That the UK government has taken steps to tackle the issue of tax abuse by companies seeking to secure contracts for the supply of goods or services and has issued ‘Procurement policy note 03/14: promoting tax compliance’ about which it says ‘A new policy was announced in the March 2013 Budget on the use of the procurement process to promote tax compliance. This applies with effect from 1 April 2013 to all central government contracts of more than £5 million. Suppliers bidding for these government contracts must self-certify their tax compliance’.

This Council now agrees that:

6. Both tax avoidance and tax evasion represent a threat to the operations of this Council, the services that it supplies to the communities that it represents, the effective operation of the local economy, our national economy, the economies of other countries and our relationships with them;
7. As a consequence of the noted threats created by tax abuse within and beyond our communities this Council wishes to take action to tackle tax abuse in all its forms and as a result:

- a. Requires that the Chief Executive of the Council notes 'Procurement policy note 03/14: promoting tax compliance' and adapts it for use as part of the procurement procedures of this Council excepting that the resulting policy shall apply to all companies bidding for contracts and to report back on this issue not later than ;
- b. Requires that the Chief Executive of the Council notes the 'Fair Tax Mark' and consider the ways in which that certification process may be included in the changes to the tendering process noted in paragraph (a) above;
- c. Requires that the Chief Executive of the Council prepare a policy proposal for declaring Barking and Dagenham a Fair Tax Area and shall provide plans for achieving this objective in cooperation with the local business community and the Fair Tax Mark by no later than Wednesday 1st June 2016;
- d. Requires that those who represent this Council when making decisions regarding investments that fund the pensions payable to past and present employees of this authority take tax abuse into consideration when assessing the suitability of those companies in the shares of which such funds might be invested;
- e. Agrees that this Council will actively support campaigns by HM Revenue & Customs and others, including Non-Governmental Organisations, that encourage tax compliance and an end of tax abuse in the area covered by this Council and beyond.
- f. Authorises the necessary expenditure to implement these proposals.
- g. Requires a report back on progress made with regard on each of these proposals not less than once quarterly for the next three years.
- h. Requires that the Council actively publicise this policy."

### **Comment of the Chief Executive**

The Chief Executive has decided following consultation with the Strategic Director of Finance and Investment and the Director of Law and Governance that the above motion could have significant financial and/or contractual issues for the Council. In accordance with paragraphs 10.11 and 10.12, Part 2, Chapter 4 of the Council's Constitution the motion must be accompanied by a report setting out the financial and legal implications.

As it is not possible for such a report to be finalised in time for this Assembly meeting, the Chair will be asked to adjourn the motion without debate until the next meeting of the Assembly on 23 March 2016.

**10. Motions With Notice**

- 10.1 Written notice of any motions must be received by the Chief Executive by no later than 4.00pm on the Wednesday two weeks before the meeting, except in respect of a vote of no confidence in the Leader of the Council for which the process in paragraph 13 applies.
- 10.2 A notice of motion must relate to a matter which affects the Council or its area and must relate to a matter in respect of which the Council has a relevant function.
- 10.3 A notice of motion may be in more than one part and contain more than one recommendation, but must all relate to the same subject matter.
- 10.4 The Chief Executive may reject a notice of motion if, in his/her opinion:
  - (a) it is of a vexatious or derogatory nature or otherwise considered improper or inappropriate;
  - (b) is contrary to any provision of any code, protocol, legal requirement or rule of the Council;
  - (c) it does not relate to the business of the Council;
  - (d) is substantially the same as another motion already considered at the Assembly within the previous twelve months.
- 10.5 Where the Chief Executive rejects a notice of motion on any of the above grounds, he/she shall inform the Chair and the Councillor who submitted the notice of motion as soon as possible.
- 10.6 In the event that the Councillor who submitted the motion is not present at the Assembly meeting, the motion will be withdrawn.
- 10.7 Any motions withdrawn as indicated above, or withdrawn at the request of the Councillor who submitted the motion, either before or during the meeting, may not be resubmitted to the Assembly within a period of six months. This condition will be waived where the Councillor, or a colleague on their behalf, has notified the Chief Executive by 5.00 pm on the day of the meeting of their inability to attend due to their ill health or other reason accepted by the Chief Executive.
- 10.8 Motions will be listed on the agenda in the order in which they are received, save that:
  - (a) where two or more notices of motion are received from a particular Member for the same meeting, that Member's second notice of motion shall be included after all other Members' first notices of motion, that Member's third notice of motion shall be included after all other Members' second notices of motion, and so on.
  - (b) where he/she considers that the notice of motion, statement or consideration of the notice of motion is likely to result in the disclosure of confidential or exempt information, in which case

he/she may group such notices of motion together with other items of business which are, in his/her opinion, likely to involve the exclusion of press and public during their consideration.

- 10.9 Written notice of any amendments to motions must be received by the Chief Executive by no later than 12 noon on the Friday before the meeting. The same criteria and actions as described in paragraphs 10.2 - 10.8 will apply in relation to any amendments received.
- 10.10 Any amendments proposed after the time specified in paragraph 10.9 will only be considered for exceptional reasons such as a change in circumstances appertaining to the original motion, in which case the consent of the Chair will be required.
- 10.11 The Assembly shall not debate any motion which could give rise to a significant change to the income or expenditure of the Council or to contract terms unless, in the opinion of the Chief Executive acting on advice from the Chief Finance Officer and Monitoring Officer as appropriate, the motion is accompanied by a report from the Chief Finance Officer or the Monitoring Officer, as appropriate, setting out the financial or legal effect of the motion.
- 10.12 Where a motion which would require an accompanying report under Rule 10.11 falls to be moved without such accompanying report being made available to all Councillors, the motion shall stand adjourned without debate to the next available meeting of the Assembly.
- 10.13 Subject to Rule 10.14, if there are other motions or recommendations on the agenda that have not been dealt with by the close of the meeting, they are deemed formally moved and seconded and shall be put to the vote by the Chair without debate.
- 10.14 Where a notice of motion submitted under Rule 10 falls to be dealt with under Rule 10.13, the Member giving the notice may either:
  - (a) speak to the motion for not more than three minutes before the motion is put by the Chair without debate; or
  - (b) require that the motion is deferred to the next available meeting.



## **11. Motion to rescind a previous decision**

- 11.1 A motion or amendment to rescind, or which has the effect of rescinding, a decision made at a meeting of the Assembly within the past six months, may not be moved except upon a recommendation from the Cabinet for a variation of the approved Budget or Policy Framework, or where the Monitoring Officer confirms that it is appropriate for the Assembly to reconsider the matter to comply with law, as a result of a change of law or material change of circumstances.

## **12. Rules of Debate**

- 12.1 The following order / rules of debate shall apply:

- (a) Except with the Chair's consent, the debate on each motion shall last no longer than 10 minutes and no individual speech shall exceed two minutes.
- (b) The mover will move the motion and explain its purpose.
- (c) The Chair will invite another Member to second the motion.
- (d) If any amendment(s) has been accepted in accordance with paragraphs 10.9 or 10.10, the Chair will invite the relevant Member to move the amendment(s) and explain the purpose.
- (e) The Chair will invite another Member(s) to second the amendment(s).
- (f) The Chair will then invite Members to speak on the motion and any amendments.
- (g) Once all Members who wish to speak have done so, or the time limit has elapsed, the Chair will allow the mover(s) of the amendment(s) a right of reply followed by the mover of the original motion.
- (h) At the end of the debate, any amendments will be voted on in the order in which they were proposed.
- (i) If an amendment is carried, the motion as amended becomes the substantive motion to which any further amendments are moved and voted upon.
- (j) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.
- (k) If all amendments are lost, a vote will be taken on the original motion.

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