London Borough of Barking & Dagenham
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Notice of Meeting

CABINET

Tuesday, 19 March 2019 - 7:00 pm
Council Chamber, Town Hall, Barking

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

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AGENDA

1. Apologies for Absence

2. Declaration of Members' Interests

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

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

4. Budget Monitoring 2018/19 - April to January (Month 10) (Pages 13 - 40)

5. Amalgamation of Marks Gate Infant and Junior Schools to form a Primary School (Pages 41 - 47)

6. **Contract for the Provision of a Domestic and Sexual Violence Service (Pages 49 - 66)**

7. **Commercial Company Business Plans (Pages 67 - 133)**

   Appendices A and B to the report (pages 77 – 133) are exempt documents.

8. **B&D Energy Limited Business Plan 2019/20 (Pages 135 - 198)**

   Appendix 1 to the report (pages 147 – 198) is an exempt document.

9. **Institutional Funding Proposal - ApartHotel Investment (Pages 199 - 269)**

   Appendices 1 and 2 to the report (pages 213 – 269) are exempt documents.

10. **Debt Management Performance and Write-Offs 2018/19 (Quarter 3) (Pages 271 - 288)**

11. **Any other public items which the Chair decides are urgent**

12. **To consider whether it would be appropriate to pass a resolution to exclude the public and press from the remainder of the meeting due to the nature of the business to be transacted.**

Private Business

The public and press have a legal right to attend Council meetings such as the Cabinet, except where business is confidential or certain other sensitive information is to be discussed. The appendices to items 7, 8 and 9 above are exempt from publication under paragraph 3, of Part 1 to Schedule 12A of the Local Government Act 1972 (as amended) as they contain commercially confidential information and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

Our Vision for Barking and Dagenham

ONE BOROUGH; ONE COMMUNITY; NO-ONE LEFT BEHIND

Our Priorities

A New Kind of Council

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

Empowering People

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

Inclusive Growth

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

Citizenship and Participation

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

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MINUTES OF
CABINET

Monday, 18 February 2019
(7:00 - 8:33 pm)

Present: Cllr Saima Ashraf (Deputy Chair in the Chair), Cllr Dominic Twomey (Deputy Chair), Cllr Sade Bright, Cllr Evelyn Carpenter, Cllr Cameron Geddes, Cllr Syed Ghani, Cllr Margaret Mullane, Cllr Lynda Rice and Cllr Maureen Worby

Apologies: Cllr Darren Rodwell

86. Declaration of Members' Interests

There were no declarations of interest.

87. Minutes (22 January 2019)

The minutes of the meeting held on 22 January 2019 were confirmed as correct.

88. Budget Monitoring 2018/19 - April to December (Month 9)

The Cabinet Member for Finance, Performance and Core Services presented a report on the Council's revenue and capital budget monitoring position for the 2018/19 financial year as at 31 December 2018 (Month 9).

The underlying General Fund position had worsened by circa £0.391m from the previous month, with a projected end of year overspend of £4.248m against the budget of £145.368m. The Cabinet Member referred to the People and Resilience Action Plan, which was now expected to achieve a £2.161m reduction in the spend trajectory, and other areas of over / underspend that were highlighted in the report.

In respect of the Capital Programme, the Cabinet Member was pleased to report that expenditure was ahead of schedule at Month 9 mainly due to the acceleration of several school expansion projects. A number of new projects had also been added to the current year's programme since the last update in November 2018. Other observations regarding the Capital Programme included:

- The recent opening ceremony for the new demountable swimming pool at Beacontree Heath;
- The development of London's first Youth Zone facility at Parsloes Park that was due to be open in the coming months;
- The purchase of additional Refuse Collection vehicles to support the service improvements being implemented over the summer; and
- The integral role of partners and the local community in the successful delivery of projects, with particular reference made to the instrumental role of local resident Lisa Adams in securing external funding and developing plans for improved play equipment and sporting facilities at Valence Park.

The Cabinet **resolved** to:

(i) Note the current forecast outturn position for 2018/19 of the Council's

General Fund revenue budget, as detailed in sections 2 and 3 and Appendix A to the report; and

(ii) Note the current forecast outturn position for 2018/19 of the Council's Capital Programme as detailed in section 4 and Appendix C to the report.

89. Budget Framework 2019/20 and Medium Term Financial Strategy 2019/20 - 2020/21

The Cabinet Member for Finance, Performance and Core Services introduced the Council's proposed budget framework for 2019/20 which incorporated the following:

- the Medium Term Financial Strategy (MTFS) for 2019/20 to 2020/21;
- the General Fund budget for 2019/20;
- the level of Council Tax for 2019/20;
- the draft Capital Programme for 2019/20 to 2022/23;
- an update on the Dedicated Schools Grant and Local Funding Formula for Schools; and
- the Flexible Use of Capital Receipts Strategy to support the Council's transformation agenda.

The Cabinet Member referred to the unprecedented financial challenges faced by local authorities as a result of the year-on-year funding cuts by Central Government, which had coincided with increasing demand for services. The Council had chosen to take a bold and ambitious approach in response to those challenges, focussing on investing in services, maximising economic growth and transforming the way the Council was run. In that respect, the Cabinet Member referred to the proposed Capital Programme for the next four years which would see over £740m of investment in the Borough.

With regard to revenue funding, the Cabinet Member explained that the abolition by the Government of the Revenue Support Grant (RSG) system meant that the Council's main source of revenue funding now came from business rates, which was lower than the funding received under the former RSG. As a consequence, a 2.99% increase to the level of Council Tax that applied to Council services was proposed which would raise an additional £1.974m, of which £0.6m would be specifically ring-fenced for Care and Support services. The Cabinet Member commented on the 2019/20 budget consultation that had taken place between November 2018 - January 2019, which included several face-to-face events with the local community, and the key projects, issues and risks associated with Council services in the years ahead.

The Cabinet Member also referred to the statutory Chief Finance Officer's statement regarding the robustness of the overall Budget proposals for 2019/20 and the paper appended to the report setting out the potential local implications relating to Brexit.

In respect of schools' funding for 2019/20, the Cabinet Member for Educational Attainment and School Improvement elaborated on changes required to the funding formula approved by the Cabinet under Minute 62 (11 December 2018) as a consequence of the recent announcement by the Department for Education of the final funding allocations.

The Cabinet **resolved to recommend the Assembly** to:

(i) Approve a base revenue budget for 2019/20 of £148.820m, as detailed in Appendix A to the report;

(ii) Approve the adjusted Medium Term Financial Strategy (MTFS) position for 2019/20 to 2020/21 allowing for other known pressures and risks at the current time, as detailed in Appendix B to the report, including the additional cost of borrowing to accommodate the capital costs associated with the implementation of the MTFS;

(iii) Delegate authority to the Chief Operating Officer, in consultation with the Cabinet Member for Finance, Performance and Core Services, to finalise any contribution required to or from reserves in respect of the 2019/20 budget, pending confirmation of levies and further changes to Government grants prior to 1 April 2019;

(iv) Approve the Statutory Budget Determination for 2019/20 as set out at Appendix C to the report, reflecting an increase of 2.99% on the amount of Council Tax levied by the Council and the final Council Tax proposed by the Greater London Assembly (8.9% increase), as detailed in Appendix D to the report;

(v) Note the update on the current projects, issues and risks in relation to Council services, as detailed in section 4 of the report;

(vi) Approve the Council's draft Capital Programme for 2019/20 to 2022/23 totalling £744.323m, of which £498.473m was General Fund schemes, as detailed in Appendix E to the report;

(vii) Approve the Flexible Use of Capital Receipts Strategy as set out in Appendix F to the report;

(viii) Note the briefing on the potential implications of Brexit for the Council as set out in Appendix G to the report;

(ix) Note the Chief Finance Officer's statutory finance report as set out in section 10 of the report, which included a recommended minimum level of reserves of £12m; and

(x) Approve the updated Dedicated Schools Budget for 2019/20 including the hourly rate payable to Early Years providers (3-4 year olds) as set out in section 11 and Appendix H to the report.

90. Housing Revenue Account: Estimates and Review of Rents and Other Charges 2019/20 and 30 Year Business Plan

The Cabinet Member for Regeneration and Social Housing presented a report on the Housing Revenue Account (HRA) estimates, rents and other related charges for 2018/19, together with the 30-year HRA Business Plan.

In line with the Government's social housing rent reforms which required an annual 1% cut over four years starting 2016/17, Council house rents were to reduce by an average of 95p per week in 2019/20. The Cabinet Member explained that whilst any level of reduction may be welcomed by tenants, the cumulative impact of the Government's policy was an expected loss of £33.6m investment in the Council's housing stock over the four-year period.

The majority of tenant service charges were to remain unchanged for 2019/20 while a service review was undertaken, with the only increase applying to estate lighting to more accurately reflect the full cost of the service. The Cabinet Member for Finance, Performance and Core Services suggested that detailed discussions on service charges were needed.

In respect of the 30-year Business Plan, the Cabinet Member for Regeneration and Social Housing referred to the planned investment in the housing stock over the next couple of years, aimed at ensuring that good quality, affordable housing was available for all income groups throughout the Borough. On that issue, it was acknowledged that the new Borough-wide stock condition survey would be integral to the development of the plans for estate regeneration and improvements to existing housing.

The Cabinet **resolved** to:

(i) Agree that rents for all general needs secure, affordable and sheltered housing accommodation be reduced by 1% in line with the national rent reduction arrangements, from the current average of £94.47 per week to £93.52 per week;

(ii) Agree the following service charges for tenants:

Service	**Weekly Charge 2019/20**	**Increase / reduction**
Grounds Maintenance	£2.93	-
Caretaking	£7.65	-
Cleaning	£3.68	-
Estate Lighting	£3.85	£1.54
Concierge	£10.06	-
CCTV (SAMS)	£6.17	-
Safer Neighbourhood Charge	£0.50	-
TV aerials	£0.60	-£0.08

(iii) Agree that charges for heating and hot water increase by inflation to the following:

Property size	**Weekly Charge 2019/20**
Bedsit	£13.12
1 Bedroom	£13.92
2 Bedroom	£16.71
3 Bedroom	£17.02
4 Bedroom	£17.46

(iv) Agree that rents for stock used as temporary accommodation continue to be set at 90% of the appropriate Local Housing Allowance (LHA);

(v) Agree that the above charges take effect from 1 April 2019;

(vi) Agree the proposed HRA Capital Programme for 2019/20 as set out in Appendix 6 to the report;

(vii) Approve the HRA Business Plan for 2019/20 as set out in Appendix 7 and the financial implications set out in Appendix 8 to the report; and

(viii) Note the assumptions underpinning the HRA Business Plan which would be reviewed annually.

91. 'Transforming London Riverside' Housing Infrastructure Fund Bid and Castle Green Development Strategy

The Cabinet Member for Regeneration and Social Housing introduced a report on a proposed funding bid via the Government's Housing Infrastructure Fund (HIF) for up to £219m to support a number of major, strategic infrastructure and development projects in the Borough.

The main component of the bid, which would be led by the Greater London Authority in conjunction with the Council and Be First, related to land assembly costs in the Castle Green area of the Borough amounting to £150m. Other projects included improvements to the Renwick Road junction (£14.6m) to facilitate further development on Barking Riverside, new rail stations at Castle Green (£22m) and Beam Park (£17.9m) and improvements at Barking Station (£15m), although the Cabinet Member advised that the latter project was now unlikely to be progressed as part of the current HIF bid.

The redevelopment of the Castle Green area also offered the opportunity to address the severance created between the Becontree Estate on one side of the A13 and the area to the south that led to Barking Riverside. The 'undergrounding' of a two-kilometre stretch of the A13 would also pave the way for what would become the largest regeneration project in the Borough, creating up to 15,000 new homes, modern employment space and improved rail and other transport facilities. The Cabinet Member referred to the indicative timetable for the land acquisitions and confirmed that further reports would be presented to the Cabinet in the months ahead on the potential use by the Council of its compulsory purchase powers and the detailed masterplan and phasing of the regeneration plans.

The Cabinet **resolved** to:

(i) Endorse the submission of the 'Transforming London Riverside' Housing Infrastructure Fund Bid and delegate authority to the Chief Operating Officer, in consultation with the Director of Law and Governance and the Cabinet Members for Regeneration and Social Housing and Finance, Performance and Core Services, to approve the final bid documentation;

(ii) Agree, in principle, the development strategy for the Castle Green area (shown in Appendix 2 to the report) including the future use by the Council of its Compulsory Purchase Order powers, subject to the HIF bid being successful and a further report to Cabinet in respect of fulfilling the criteria referred to in paragraph 3.3 of the report;

(iii) Delegate authority to the Chief Operating Officer to approve the allocation of up to £300,000 of Council funding to cover the cost of master planning for Castle Green should other funding not be available; and

(iv) Delegate authority to the Director of Law and Governance, in consultation with the Cabinet Members for Finance, Performance and Core Services and Regeneration and Social Housing and the Chief Operating Officer, to enter into all relevant contracts and agreements in relation to the HIF.

92. Voluntary, Community and Social Enterprise Sector Strategy

The Cabinet Member for Community Leadership and Engagement introduced a report on the proposed Participation and Partnerships Strategy 2019-2023 and the procurement, via a social infrastructure contract, of an organisation from the voluntary, community and social enterprise (VCSE) sector to help deliver the Council's aspirations.

The Cabinet Member referred to the key role of VCSE partners in the Borough and stated that a key focus of the new four-year Strategy was to strengthen the sector and build on some of the great work and ideas that had already helped to shape the Borough. In turn, the VCSE sector would be better placed to influence and deliver essential services and support to the local community, help people grow in life and build a better future for everyone; all aspirations within the Borough Manifesto.

In respect of the procurement, the Cabinet Member referred to the tendering of the social infrastructure contract. The end of the current contract had provided the opportunity to assess the options for the future, in the context of the Borough Manifesto and the new Strategy. The preferred option was to commission a new social infrastructure contract to lead the step change required locally across the VCSE sector and develop, in conjunction with the Council and partners, arrangements for collaboration and support, including the local giving model and brand.

The Cabinet Member was also pleased to report that the Council had been awarded £100,000 grant funding from the Department for Digital, Culture, Media and Sport towards the development of the VCSE across 2018/19 and 2019/20.

The Cabinet **resolved** to:

(i) Agree the Participation and Partnerships Strategy for strengthening the voluntary, community and social enterprise sector in Barking and Dagenham, as set out at Appendix 4 to the report;

(ii) Note the local giving model update at Appendix 3 to the report and proposed next steps within the strategy;

(iii) Agree that the remaining Crowdfunding budget be ringfenced for 2019-2021 to support both the contract with Crowdfunder UK and the match-funding small grants fund;

(iv) Agree the procurement of a VCSE organisation to deliver the social infrastructure support and a local giving model, as detailed in Option 4 in the report; and

(v) Delegate authority to the Director of Policy and Participation, in consultation with the Cabinet Member for Community Leadership and Engagement, the Cabinet Member for Social Care and Health Integration, the Chief Operating Officer and the Director of Law and Governance, to conduct the procurement and award and enter into the contract for social infrastructure support and all other necessary or ancillary agreements with the successful partner, in line with the priorities set out in the strategy.

93. East London Regional Adoption Agency - Business Case

Further to Minute 95 (19 February 2018), the Cabinet Member for Social Care and Health Integration introduced a report on the proposal for the Council to join with a number of other London Boroughs to form a regional adoption agency, known as 'Adopt London East', in line with the requirements of the Education and Adoption Act 2016.

The Cabinet Member referred to the key aspects of the final Business Case and confirmed that while some financial savings are expected to be achieved, the main aims of the new joint working arrangements related to improved service delivery and the development of an integrated core adoption support offer.

The Cabinet **resolved** to:

(i) Agree the Council's participation in the East London Regional Adoption Agency with effect from June 2019, in accordance with the business case set out at Appendix 1 to the report; and

(ii) Delegate authority to the Director of People and Resilience, in consultation with the Cabinet Member for Social Care and Health Integration and the Director of Law and Governance, to enter into any contracts / agreements necessary to effect the arrangements.

94. Growth Commission Stocktake

Further to Minute 54 (17 October 2017), the Cabinet Member for Regeneration and Social Housing introduced a report on the findings of the latest review of progress against the recommendations of the Growth Commission report "No-one left behind: in pursuit of growth for the benefit of everyone", which the Council had commissioned in late 2015.

The original Growth Commission had been led by Mike Emmerich, an independent expert in urban regeneration, and put forward 109 recommendations. The Council carried out an internal review of progress in 2017 and commissioned Metro Dynamics, headed by Mike Emmerich, in June 2018 to undertake a further, independent assessment of progress. Metro Dynamics' report, entitled "Growth Commission Stocktake Towards Inclusive Growth for Barking and Dagenham", reflected that the Council and partners had made considerable progress since 2016 across all areas highlighted in the original Commission, particularly in relation to issues associated with physical regeneration. The report did, however, suggest that more needed to be done to connect local people into the benefits of the growth in the Borough and proposed five 'Grand Challenges' in order to close that gap:

- 'Building sustainable communities', including a renewed focus on the Becontree Estate and Barking Riverside as exemplars of 21st Century sustainable, connected and vibrant urban developments;
- 'Creating a new enterprise agenda', including a range of activity to expand the business base and improve job density;
- 'A new deal with decent jobs for everyone that can work', including a sustained focus on the economically inactive population;
- 'Preparing our young people for the future', including a renewed effort to bolster the institutional, financial and human capacity of schools; and
- 'Beyond civic foundations; a new civic culture', including a new approach to engaging residents in growth and regeneration.

Members welcomed the independent critique of the Council's progress and spoke on some of the specific initiatives that had stemmed from the implementation of the original Growth Commission recommendations, which included a recent event to encourage and medium-sized business growth in the Borough and community events in partnership with Job Centre Plus to improve individuals' prospects of gaining employment.

The Cabinet **resolved** to:

(i) Note the recommendations from the Growth Commission stocktake, as set out in Appendix A to the report; and

(ii) Note that a further report shall be presented to the Cabinet later in the year setting out plans for the Council to respond to the recommendations from the stocktake.

95. Treasury Management Strategy Statement 2019/20

The Cabinet Member for Finance, Performance and Core Services presented the draft Treasury Management Strategy Statement (TMSS) for 2019/20 which set out the Council's borrowing, investment and funding plans for the year ahead.

The Cabinet Member referred to the key issues within the TMSS, which included the new requirement for a Capital Strategy, details of borrowing and investments levels at 31 December 2018, cash balances at 31 March each year since 2015/16 and the medium-term capital finance budget. In respect of the latter, the Cabinet Member confirmed that the increasing amount of General Fund interest payable from 2018/19 to 2022/23 and beyond reflected the significant activity under the Council's Investment and Acquisition Strategy.

Reference was made to the importance of effective treasury management in supporting the Council's ambitious plans and the stretched targets for the Treasury section in respect of achieving interest on the Council's General Fund cash balances. In respect of the Housing Revenue Account and the announcement by the Prime Minister last October that the debt cap was to be abolished, the Cabinet Member advised that details were still awaited of when that change of policy would come into effect and the practical implications for local authorities.

The Cabinet **resolved to recommend the Assembly** to adopt the Treasury Management Strategy Statement for 2019/20 and, in doing so, to:

(i) Note the current treasury position for 2019/20 and prospects for interest rates, as referred to in section 7.2 of the report;

(ii) Approve the Annual Investment Strategy 2019/20 outlining the investments that the Council may use for the prudent management of its investment balances, as set out in Appendix 1 to the report;

(iii) Approve the Council's Borrowing Strategy 2019/20 to 2023/24, as set out in Appendix 2 to the report;

(iv) Note the inclusion of the Capital Strategy 2019/20, incorporating the Investment and Acquisitions Strategy, as set out in Appendix 3 to the report;

(v) Approve the Capital Prudential and Treasury Indicators 2019/20 – 2022/23, as set out in Appendix 4 to the report;

(vi) Approve the Minimum Revenue Provision Policy Statement for 2019/20, representing the Council's policy on repayment of debt, as set out in Appendix 5 to the report;

(vii) Note that a review of the Minimum Revenue Provision Policy Statement was to be carried out and any amendments reported back as part of the Treasury Outturn Report for 2018/19;

(viii) Approve the Operational Boundary Limit of £1.002bn and the Authorised Borrowing Limit of £1.102bn for 2019/20, representing the statutory limit determined by the Council pursuant to section 3(1) of the Local Government Act 2003, as referred to in Appendix 4 to the report; and

(ix) Delegate authority to the Chief Operating Officer, in consultation with the Cabinet Member for Finance, Performance and Core Services, to proportionally amend the counterparty lending limits agreed within the Treasury Management Strategy Statement.

96. Pay Policy Statement 2019/20

The Cabinet Member for Finance, Performance and Core Services presented the Council's draft Pay Policy Statement for 2019/20 in accordance with the requirements of the Localism Act 2011.

The Statement included details of the pay ratios showing the Chief Executive's salary against the median salary figure for all employees and against the lowest paid employees, as well as comparative data compiled from a number of other London Boroughs. The Cabinet Member commented that Barking and Dagenham's favourable position in comparison to the benchmark was reflective of the prudent stance taken by the Council on senior officers' pay levels when recruiting a new Chief Executive in late 2014.

In line with the Council's long-standing commitment to pay its employees no less than the London Living Wage rate, the Cabinet Member referred to the proposed increase to the minimum rate of pay from £10.20 to £10.55 per hour with effect from 5 November 2018. The increase would also apply to a range of apprenticeship posts across the Council and Members were pleased to hear that the pay policy was encouraging apprentices to want to build a career at Barking and Dagenham.

The Cabinet **resolved** to:

(i) Agree the implementation of the London Living Wage increase from £10.20 to £10.55 per hour with effect from 5 November 2018 for employees and apprentices operating in service areas covered by 'Green Book' terms and conditions; and

(ii) Recommend the Assembly to approve the Pay Policy Statement for the London Borough of Barking and Dagenham for 2019/20 as set out at Appendix A to the report, for publication on the Council's website with effect from April 2019.

97. Corporate Plan 2018-2022 - Quarter 3 Performance Reporting

The Cabinet Member for Finance, Performance and Core Services introduced the corporate performance monitoring report for the third quarter of the 2018/19 financial year, which set out progress against the Key Accountabilities and the 47 Key Performance Indicators (KPIs).

The Cabinet Member referred to the main performance issues highlighted in the report and encouraged his colleagues to continue to use the information at portfolio meetings to challenge service performance and develop actions to address areas of concern.

The Cabinet resolved to:

(i) Note progress against the Key Accountabilities as detailed in Appendix 1 to the report;

(ii) Note performance against the Key Performance Indicators as detailed in Appendix 2 to the report.

CABINET

19 March 2019

Title: Budget Monitoring 2018/19 - April to January (Month 10)	
Report of the Cabinet Member for Finance, Performance and Core Services	
Open Report	**For Decision**
Wards Affected: All	**Key Decision:** Yes
Report Author: Katherine Heffernan, Group Manager – Service Finance	**Contact Details:** Tel: 020 8227 3262 E-mail: katherine.heffernan@lbbd.gov.uk
Accountable Director: Helen Seechurn, Interim Finance Director	
Accountable Strategic Leadership Director: Claire Symonds – Chief Operating Officer	

Summary

This report shows the updated forecast based on financial performance in the first eight months of the year. The forecast outturn position improved slightly since last month's and is now a forecast of £149.353m total net expenditure against the approved budget of £145.368m which is an overspend of £3.985m.

There is an overspend of just under £10.5m across People and Resilience. This month there have been small improvements in both Disabilities and Childrens. The overspend is offset by underspends in Commissioning and an action plan of £2.5m of which approximately £2.2m is assessed as being secure. The remaining sum of £0.281m is considered 'at risk' and alternative initiatives are being explored.

In addition to the overspends in Care and Support there are overspend variances in Culture and Heritage, Community Solutions and Public Realm being offset by other services, central expenses and contingency.

As the year end approaches, a number of services have requested permission to carry forward income or unspent budget to fund specific projects that will not be completed before the end of March 2019. These are listed in section 4 of the report.

The report also contains proposals relating to a £200,000 working capital loan to B&D Reside (section 5) and virement requests (section 6).

At last month's Cabinet meeting, Members received details of proposed additions to the Capital Programme since the last reprofiling in October 2018. Appendices C and D respectively set out details of the revisions and the full reprofiled Capital Programme for 2018/19, totalling £284.758m, for approval.

Recommendation(s) The Cabinet is recommended to: (i) Note the current forecast outturn position for 2018/19 of the Council's General Fund revenue budget as detailed in section 3 and Appendix A to the report; (ii) Approve the carry forward requests into 2019/20 as detailed in section 4 and Appendix B to the report; (iii) Approve a working capital facility of up to £0.2m for the B&D Reside group of companies on the terms set out in section 5 of the report; (iv) Approve a virement in 2018/19 in respect of the Street Purchasing income and expenditure budgets and a virement from 2019/20 onwards in respect of the disaggregation of the placements budget for Children with Disabilities, as detailed in section 6 of the report; and (v) Approve the reprofiled Capital Programme for 2018/19 of £284.758m, as detailed in Appendix D to the report.
Reason(s) As a matter of good financial practice, the Cabinet should be informed about the Council's spending performance and its financial position. This will assist the Cabinet in holding officers to account and in making future financial decisions.

1 Introduction and Background

1.1 This report provides a summary of the forecast outturn for the Council's General Fund revenue budget and other current financial issues.

2 Overall Revenue Position

2.1 The overall position is currently forecast to total net expenditure of £149.353m which would result in an overspend against the expenditure budget of £3.985m. If this is the year-end position, it would require a further drawdown from the Council's budget support reserve. There is sufficient funding in this reserve to cover this amount.

2.2 There are potential overspends across Care and Support, offset by an action plan within People and Resilience Commissioning and also in Public Realm, Culture, Customer Services. There are offsetting underspends in My Place, Inclusive Growth, Central Services and the risk contingencies written into the budget as part of the planning process.

2.3 There is still scope for some improvement on this overall position – some services tend to be forecast on a cautious basis and we are projecting an underspend on the Collection Fund of £1.5m, however the final position is likely to be an overspend which may require a drawdown on the budget support reserve.

3. More Information on the Main Variances

Children's Care and Support – potential overspend of £5.252m

3.1 The Children's forecast has reduced this month to £5.25m with decreases in both the staffing budget and the care placements budget. As previously reported the top three elements of the overspend are staffing, (£1.464m – an increase of £0.5m), placements (£2.47m), and the costs associated with legal proceedings (£0.363m including costs of Counsel, expert witnesses and court mandated assessments and investigations – shown within Supplies and Services.). Although there have been some variations in year the pattern of expenditure has been consistent.

3.2 The overspend on salaries is mostly driven by the high levels of agency which is creating a pressure of £1.464m. The service has been working very hard to reduce this pressure through its recruitment and retention strategy. This month has seen the successful on-boarding of permanent social workers which has reduced the staffing pressure by £0.158m.

3.3 The table below shows an analysis of the staffing costs in the service. The cost of agency staff is greater than the cost of an equivalent permanent staff member – which is the main driver of the overspend on staffing.

	Budget	Forecast	Variance	Previous months variance	Movement
	£	£	£	£	£
Employees salaries	11,877,400	9,345,496	(2,531,904)	(2,531,904)	0
Agency staff	435,000	4,431,545	3,996,545	4,142,180	(145,635)
Relocation costs	0	105,000	105,000	105,000	0
Staff development & training	405,500	7,366	(398,134)	(376,076)	(22,058)
Recruitment & Retention allowances	100,000	171,792	71,792	71,792	0
Staff Recruitment costs -DPS	0	205,576	205,576	205,576	0
Recruitment Staff & Events	150,000	150,000	0	0	0
Employee related expenses eg DBS checks	15,450	19,427	3,977	(5,876)	9,853
	12,983,350	**14,436,204**	**1,452,854**	**1,610,693**	**(157,839)**

3.4 The breakdown of permanent and agency staff across the service is shown in the next table. The number of agency staff will reduce as a result of the successful recruitment campaign.

Service Area	FTE of Payroll Staff	FTE of Agency	Total filled FTE	Vacancy FTE	Establishment FTE
Borough Wide services	66	7	73	0.71	73.71
Children's Care and Support (Operational)	3	0	3	0	3
Children's Locality Assessment	29	19	48	1	49
Children's Locality Care Management	46	26	72	1	73
Service Development	22	0	22	1	23
Youth Offending Service	24	0	24	4	28
Grand Total	**190**	**52**	**242**	**7.71**	**249.71**

3.5 The forecast for care and support for looked after children and children in need has remained broadly the same as last month in total. There has been a net reduction of the number of children in care – however two new high cost placements in secure accommodation have been recorded (one backdated by some months.) These placements are very expensive but also hard for the council to control or predict.

Placement Type	2018/19 Net Budget	January Forecast	Variance against budget	Previous months variance	Movement between Months	Reason for variance
INTERNAL FOSTERING PLACEMENT COSTS	£4,957,320	£4,628,147	-£329,173	-£348,884	£19,711	Increase of 3 children
PRIVATE AND VOL. RES. HOMES WITH EDUCATION	£3,750,010	£5,199,721	£1,449,711	£1,633,884	-£184,173	Contingency held in month 9
ADOPTION PLACEMENT COSTS	£3,595,830	£3,923,716	£327,886	£318,942	£8,945	Increase of 1 special guardianship
SPECIALIST AGENCY FOSTERING	£2,605,600	£3,197,808	£592,208	£622,077	-£29,868	Reduction of 4 placements
LEAVING CARE SERVICE	£1,125,870	£1,835,323	£709,453	£753,117	-£43,664	Reduction of 6 placements
ASYLUM SEEKERS	£893,000	£482,134	-£410,866	-£383,166	-£27,699	No change in numbers (48)
SECURE UNITS	£440,700	£574,184	£133,484	-£103,139	£236,623	Net increase of 2 high cost secure
FAMILY ASSESSMENT UNITS	£93,700	£445,673	£351,973	£351,973	£0	
	£17,462,030	£20,286,707	£2,824,677	£2,844,802	-£20,126	
S17/20 Support to families						
CARE MANAGEMENT S17	£127,300	£183,793	£56,493	£28,167	£28,325	More complex assessments & overseas travel in 3 cases
CARE MANAGEMENT S20 LAC	£77,000	£99,506	£22,506	-£8,615	£31,122	
ASSESSMENT S17 CIN	£72,200	£57,700	-£14,500	-£14,500	£0	
	£276,500	£340,999	£64,499	£5,052	£59,447	

3.6 The projected spend on Counsel fees (Legal) remains the same as reported last month, **£0.633m** against a budget of **£0.482m.** The cost of court applications is forecast to spend **£0.462m** against a budget **of £0.250m.** The actual expenditure on court-related costs to end of month 10 is **£0.406m** so there is a risk that the current forecast may be exceeded.

Disabilities Care and Support – forecast overspend of £3.264m

3.7 The All Age Disability Service is forecasting to spend £19.678m which is £3.264m over budget (M7-£3.622m). This represents a favourable movement of £0.108m from the position at Month 9. The budget this month has been increased by £0.472m - £0.158m increase in the staffing budget following the virement approved last month and £0.314m IBCF funding transferred to the Disability service in accordance with the approved IBCF plan. This budget change had been anticipated in previous forecasts and so is not the cause for the decrease in the overspend.

3.8 The change to the forecast is made up of the following:

- (£0.163m) – Equipment & Adaptation, £0.120m iBCF additional allocation & £0.043m unspent budget allocation due to lack of capacity to deliver all works.
- (£0.046m) - recharge of Occupational Therapy costs to the DFG in line with the guidance.
- (£0.009m)- cost reductions against team staffing budgets in a number of areas offset by additional payments to Athena for work on service reviews.
- £0.095m- increase in LD cost of packages mainly direct payments
- £0.015m – Children with Disabilities increase in payments to private contractors

3.9 The contributions to the overspend are detailed below:

3.9.1 **Learning Disabilities –** The projected overspend on Learning Disability Packages at the half way point in the financial year is **£1.371m** which is an increase of £95k. There have been increases in client numbers in several service types.

Package Type	Jan Client Number	Dec Client Number	2018/19 Revised Annual Budget	Jan Forecast	Dec Forecast	Change
			£	£	£	£
Direct payments	322	314	2,879,800	4,116,362	3,903,234	213,128
External Supported living	78	76	2,452,080	1,893,677	1,965,145	-71,468
External Residential care	40	38	2,036,400	2,396,315	2,339,048	57,267
External Day care	19	19	200,200	457,184	456,875	309
Home Care	17	13	93,000	435,102	402,430	32,672
Nursing care	7	7	0	391,945	391,945	0
Respite care	12	8	0	38,105	38,105	0
ASC Grant			0	0	-570,648	570,648
iBCF Grant			0	0	-70,000	70,000
NEETs – social care contribution			150,000	24,507	50,000	-25,493
Other *			134,472	-435,514	95,336	-530,850
Additional budget allocations						-221,402
Grand Total	**495**	**475**	**7,945,952**	**9,317,683**	**9,001,470**	**94,811**

Net of other expenditure and income on the cost centre e.g. ILF grant & transport recharge
CHC income net off against supported living

3.9.2 **Children with Disabilities Social care provision** – The cost of packages in place to support children with disabilities is projecting an overspend of £0.685m. £0.499m of this is attributable to the cost of packages to support Children with Disabilities and £0.186m to legal cases and associated court costs. There are currently 268 direct payment clients in January, an increase of 5 from last month. The transport overspend has remained stable at £0.642m. The staffing position this month has improved slightly, from £0.120m to £0.088m overspend.

Adults Care and Support – Overspend of £2.020m,

3.10 The Adults forecast has been maintained this month at an overspend of just over £2m based on current information. The bulk of the pressures are for Adult Care Packages where the service is continuing to experience high levels of demand with a clear net increase in numbers of people receiving services. In the final quarter of the year last year approved homecare hours were in the region of 17,000 but this is now almost 21,000 hours. There has been significant increase in crisis intervention activity where hospital patients from the Joint Assessment and Discharge service (JAD) are resulting in homecare packages – many of which become long term.

3.11 Activity has also increased in Direct Payments – 653 service users now compared with 563 last year and the cost and complexity of the new packages appears to be increasing. The average for new starters is £549 per week whereas the average for cases closures is only £328.

3.12 According to the latest income reports, 2840 clients have received an assessment of which 33% are assessed as able to make no contribution and 3% are full cost payers (with those in between making a partial contribution.) The anticipated income from charging is £7.8m. There was a significant backlog in assessments but there has been some intense work to catch up.

People and Resilience Commissioning and Action Plan

3.13 There is a net underspend across People and Resilience Commissioning of £0.179m mostly relating to staffing vacancies.

3.14 In addition the People and Resilience Management team have committed to meeting these targets set by the Council's strategic management team as follows:

- To reduce the Adults Operations pressure to under £1m
- To contain all future growth in Children's and Disability and ensure that the variance in those areas do not increase further from the end of August position
- To find £2.5m of in year reductions from across all budgets including Public Health Grant, Children's and Adults Commissioning and Education, Youth and Childcare.

3.15 As at month 10, circa £2.2m of the £2.5m in year reductions action plan has been delivered or is assessed as being secure. The remaining sum of £0.281m is considered 'at risk' and alternative initiatives are being explored.

Enforcement – reduced forecast – underspend of £0.779m

3.16 An underspend of £0.157m on the Parking Account is being forecast mainly attributable to overachievement of income on PCNs. In addition, there are underspends against CCTV (£167k), Housing Standards (£0.206k), Street Enforcement (£180k) and smaller variances in other areas giving rise to an overall underspend of £0.779m.

Trading Entities – £0.37m

3.17 The MTFS includes expected dividends from the Home Services/We Fix division of the Barking and Dagenham Trading Partnership and development activity income from Be First. This was based on the best information last summer about the expected performance of the company and the date upon which it would start trading.

3.18 The Trading Partnership has now submitted its quarter two shareholder report which shows an expected dividend to the Council of £0.632m against the target of £0.942m. On this basis an improved position is now being reported in the budget monitoring. It should be noted that the shortfall against the target is in large part the result of the delayed start and different structure of the company.

Elevate Contract and Customer Services - £0.52m

3.19 There has previously been a pressure in this area related to the recovery of court costs. This was rebased in the MTFS and is not expected to recur. However, there is a pressure of £0.2m on the IT budget which is being investigated and may be possible to resolve from the Corporate Infrastructure reserve. There is an expected saving of £0.52m for the Customer Access Strategy. The programme has achieved some channel shift and a reduction in call volumes. However, this will not result in a cashable saving this year.

My Place and Public Realm – underspend of £0.221m

3.20 A overspend of £0.221m is being reported against this service area. There are significant underspends within My Place from staffing vacancies and improved efficiency especially in Contract Management and Landlord Services divisions – (a proportion of this will accrue to the HRA but there will also be some benefit to the General Fund). This is offset by pressures within Public Realm especially in Waste and Street Cleansing following delays in implementing the staffing restructure. However, there is an overall underspend in this year.

Community Solutions – net variance of £0.07m

3.21 Community Solutions has been formed by bringing together a range of budgets including some budgets that have faced pressures in recent years including Homelessness and MASH/NRPF from Children's services. The service has very challenging income targets for hostels which are not being achieved due to the high level of voids. The service has begun to use hostel spaces for families with no recourse to public funds (NRPF) who need assistance under the Childrens Act – this is expected to reduce overall costs.

3.22 In addition the service has inherited high levels of agency staffing in some areas (especially ex Children's.) This is being managed down by the service management but does remain a risk. The service was restructured at the beginning of the year and has a number of vacancies which are being reviewed and either recruited to or deleted. This is offsetting agency pressures.

3.23 The service is using some one-off income to support its budget including carry forward of historical Troubled Families funding.

Culture and Heritage – overspend of £0.230m

3.24 There are some pressures in Culture and Heritage arising from shortfalls in income at Heritage sites, some unfunded posts which are being investigated and the additional costs of agency staffing. The service is working to resolve these staffing issues and to develop initiatives to increase income.

Inclusive Growth - £0.5m underspend, £0.25m after carry forward

3.25 There is an underspend of £0.500m on Inclusive Growth mostly arising from the high level of staffing vacancies in this area during the year. There is a request (below) for £0.25m of this to be carried forward for additional essential projects next year.

Education, Youth and Childcare - £0.436m underspend, £0.206m after carry forward.

3.26 There is an underspend of £0.430m being reported in EYC. Much of this relates to additional income and £0.23m of it is requested to be carried forward to fund various projects in 2019/20. (see below.)

Central Expenses – Underspend of £4.212m

3.27 Currently there is a projected underspend of £1.79m on Central Expenses. Central Expenses contains the budget for the Apprenticeship levy which is forecast to underspend this year (as Council staffing has reduced since the modelling was first carried out), Corporate Redundancies and the rebate on agency usage.

3.28 In addition risk provisions were written into the MTFS this year for £2m risk of non-delivery of savings and £1m for risk on Parking Income.

3.29 The Street Purchasing programme is currently projecting an in-year income shortfall of £0.457m. In order to fund the interest costs of their purchase and refurbishment income of £742k is required but currently a little under £300k is being achieved. The shortfall is mostly related to the time taken for the first letting but for some properties (such as those occupied by care leavers) the rent being charge is low and does not cover the full costs this is being reviewed.

4. Carry Forward Requests

4.1 The following carry forward requests have been received. Further information is provided in the appendices. These are requests to carry forward income or earmarked budget that is intended to fund specific projects. The amount to be carried forward will the amount not used by the end of this financial year – where this is not known an estimate has been provided.

SERVICE BLOCK	Project/Programme	AMOUNT
Education, Youth & Childcare (EYC)	Speech and Language	35,000
EYC	CU London Scholarship	15,000
EYC	Colin Pond Trust	14,000
EYC	Creative and Cultural Education	66,000
EYC	BDSIP Commissioning Advice	10,000
EYC	Step Up Stay Safe	70,000
EYC	BDSIP reserve	20,000
Education, Youth and Childcare (EYC) Total		**230,000**

Inclusive Growth	Initiatives to support IG commissioning (half this year's underspend)	250,000
Children's Commissioning	Expanding Childrens Secure Estate	80,000
Public Health	Healthy New Towns	101,500
Policy and Participation	Lottery Community Fund	5,544
Policy and Participation	Crowdfunding pot	48,000
Policy and Participation	Neighbourhood Community Infrastructure Levy	565,000
Policy and Participation	Connected Communities	492,297
Policy and Participation	Pen to Print Project	53,000
Policy and Participation	Creative Enterprise Zone	25,000
Policy and Participation	New Town Culture Project	150,000
Policy and Participation	Film Unit Trading Surplus C/f	20,000
Policy and Participation TOTAL		**1,775,341**

5. **Working Credit Facility for Reside**

5.1 Reside, the Council's wholly owned affordable housing vehicle is undergoing a organisational refresh, with a new Board and Officer support. At the same time the financial modelling of each the schemes within the Reside structures is being reviewed. With a prudent overlap of structures to enable transfer of knowledge, approval is sought for a working capital support facility, in the form of a pre-approved loan of £0.200m, which will only be drawn down when strictly necessary. It is anticipated that the facility will only be required in this coming year, although this will be reviewed by the Chief Operating Officer towards the end of the year.

5.2 Interest on the loan will be charged at an appropriate commercial rate for any periods for which money is drawn down and the terms will be compliant with state aid rules. As liquidity/cashflow is a major challenge for new entities this facility reduces the risk of failure in the first years of trading. However, Cabinet is advised that the decision should be made in the knowledge that when funding is advanced to a separate entity there is always some risk of non-repayment

6. Virement Requests

6.1 Cabinet is requested to approve one virement in 2018/19. This is a technical virement only with no impact on the bottom line. It "grosses up" the street purchasing programme to show clearly the full income and expenditure budgets required (previously only the net income of £0.192m was shown):

To Create an income and expenditure budget for Street Purchasing.

INTEREST PAYABLE	550,000	
HOUSING STRATEGY	192,000	
STREET PURCHASING RENT INCOME		742,000

6.2 Cabinet is also asked to approve a virement for 2019/20. This is a budget movement to disaggregate Children with Disabilities (CWD) budgets from Children's Social Care and move them to the all age Disability service which provides a service from cradle to grave and where the responsibilities for the care of these children lies. It puts budget responsibility alongside care responsibility. This is an expenditure budget virement only, a further virement will be required to move income budgets once they have been disaggregated on an individual child basis. Permission is sought for both steps of this process. An annual review will also be required as the cohort of Children changes over time.

To disaggregate Placement Budget for Children with Disabilities

Budget for LAC with Disabilities in in-house foster care		**426,100**
Budget for LAC with Disabilities in residential homes		**1,967,600**
Budget for LAC with Disabilities in specialist agency foster care		**312,300**
Budget for LAC with Disabilities from CC	**2,706,000**	

7 Capital Programme for 2018-19

7.1 Last month the Cabinet received a report on the Capital Programme including information on a number of additions to the programme. These are summarised in Appendix C. Cabinet are asked to approve the updated capital programme for 2018/19 as set out in Appendix D.

8. Financial Implications

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

8.1 This report details the financial position of the Council.

9. Legal Implications

Implications completed by: Dr Paul Feild, Senior Governance Lawyer

9.1 Local authorities are required by law to set a balanced budget for each financial year. During the year, there is an ongoing responsibility to monitor spending and ensure the finances continue to be sound. This does mean as a legal requirement there must be frequent reviews of spending and obligation trends so that timely intervention can be made ensuring the annual budgeting targets are met

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

List of Appendices

- **Appendix A** – General Fund Revenue budgets and forecasts
- **Appendix B** – More information about carry forward requests
- **Appendix C** – Summary of Changes to the Capital Programme
- **Appendix D** – Capital Programme for Approval

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APPENDIX A

Strategic Function	Revised 18/19 BUD	Actuals YTD	Revised Forecast as at P10	Variance
TRADING PARTNERSHIP	52,396	1,434,273	422,396	370,000
BE FIRST	1,425	-1,092,968	1,425	0
DISABILITIES	16,414,148	18,195,525	19,678,000	3,263,852
ADULT'S CARE & SUPPORT	16,774,874	21,566,324	18,794,874	2,020,000
CHILDREN'S CARE & SUPPORT	33,094,909	29,528,280	38,346,909	5,252,000
CARE & SUPPORT	66,283,931	69,290,129	76,819,783	10,535,852
CENTRAL	-3,482,413	-8,949,810	-7,694,854	-4,212,441
COMMUNITY SOLUTIONS	13,542,282	12,921,220	13,612,282	70,000
CONTRACTED SERVICES	6,543,060	16,453,634	7,063,060	520,000
STRATEGIC LEADERSHIP	42,615	196,748	132,615	90,000
FINANCE	5,637,864	3,718,835	5,637,864	0
ELEVATE CLIENT TEAM	6,152,626	4,781,473	6,361,626	209,000
INNOVATION AND INVESTMENT	-1,801,000	325,122	-1,801,000	0
TRANSFORMATION	367,270	1,553,280	367,270	0
CORE	10,399,375	10,575,457	10,698,375	299,000
DEDICATED SCHOOLS GRANT	0	-5,868,984	0	0
EDUCATION, YOUTH & CHILDCARE	20,792,840	28,949,792	20,586,840	-206,000
HRA	0	-11,651,554	0	0
INCLUSIVE GROWTH	34,554	937,667	-215,446	-250,000
LAW & GOVERNANCE	535,817	-1,885,030	561,817	26,000
ENFORCEMENT	-1,743,568	-1,226,084	-2,522,568	-779,000
LAW, GOVERNANCE & HR	- 1,207,751	- 3,111,114	-1,960,751	-753,000
MY PLACE	11,128,443	-4,740,823	10,333,443	-795,000
PUBLIC REALM	8,593,487	8,870,725	9,167,487	574,000
MY PLACE	19,721,930	4,129,902	19,500,930	-221,000
CULTURE & RECREATION	2,346,313	2,476,365	2,568,313	230,000
STRATEGY & PROGRAMMES	913,580	238,471	913,580	0
POLICY & PARTICIPATION	3,259,893	2,714,836	3,662,893	403,000
BDSIP	0	345,159	0	0
ADULTS COMMISSIONING	5,565,640	2,543,763	5,646,601	80,961
PUBLIC HEALTH	-700,000	2,355,525	-700,000	0
LEISURE	388,208	641,588	388,208	0
CHILDREN'S COMMISSIONING	4,172,990	-724,957	3,914,057	-258,933
SDI COMMISSIONING	9,426,838	4,815,919	9,248,866	-177,972
P&R ACTION PLAN			-2,219,000	-2,219,000
Net Budget (Underspend)/Overspend	**145,368,360**	**121,893,558**	**149,353,799**	**3,985,439**

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APPENDIX B

EDUCATION, YOUTH AND CHILDCARE
Proposed 2018/19 carry forwards (totalling £230,000)

Education services have contributed in-year savings of £250k to the overall children's pressure. Funding from sources other than general fund remains unreliable and likely to taper. Therefore, the director is requesting for the following carry forwards in order to support improvement priorities in the next financial year.

Speech & Language - £35,000
Supporting evidence

There is ample evidence of the importance of developing good vocabulary for the youngest children – the positive impact on children's outcomes across the board and the reverse when there is language delay. We know there are many children waiting for speech and language therapy provided by health services. We are looking to work with the CCG who have promised some modest funds to pilot different ways of improving vocabulary for the youngest children. This money will allow us to kick start some work.

Using some of the strategies developed through our early children's centre work, we would like to spend some money on a renewed focus on the critical importance of the first 1000 days of a child's life and second/recruit someone with significant speech and language experience to deliver a targeted programme of training and support for practitioners working in early years settings. This training will focus on helping practitioners identify language delay and model meaningful language, vocabulary and conversations with children.

Coventry University London - £15,000
Supporting evidence

CU London devolved a budget of £95k to the LA in 2018 to enable LBBD and CU London to deliver a series of scholarship and awards programmes. 4 of the 5 programmes were delivered in the 18/19 financial year, but CU London wanted to make substantial changes to the terms and timescales for the 'CU London Club' programme, which has resulted in the programme not yet being delivered. This programme has allocated funding of £15k and will now be delivered in 19/20.

Colin Pond Trust - £14,000
Supporting evidence

The Colin Pond Trust introduced a scholarship programme in 2017 to reward the borough's best performing GCSE students as well as to incentivise them to remain studying at an LBBD institution post-16, in the face of 50% of our top 50 students historically being 'poached' by out of borough institutions. With two programmes now having been delivered over the past two years, recent analysis demonstrates an already significant positive impact on the attainment and destinations of our top performing students. Funds within the Colin Pond Trust are now depleting, and a carry forward of £14k allows the borough to deliver the programme for one extra year. Additional sponsorship is being pursued through the council brochure and we are exploring the use of dormant trust money for future years.

Creative and Cultural Education - Arts Council bid matched funding – £66,000 (2 years matched funding)
Supporting evidence

The council is through to the final stage of a £1m bid to support its Cultural Education Partnership. The bid will require a matched fund element of 10% (over the next 3 years) of the £1m. The remaining third of the money required will need to come from schools as a contribution. Given pressures on education funding it is sensible to secure the council's part of the match now.

Gillian Cawley / Cornerstone advice - £10,000
Supporting evidence

Commissioning advice as required to support development of education core as commissioners for BDSIP in second year of operation.

Education Central Contingency - £70,000
Supporting evidence

This contingency has been carried over from the previous year to fund priorities. The two most pressing resource needs for education at the moment are young people's safety in and around schools and young people's mental health and well-being.

Funding will be used to kick starting the Step Up, Stay Safe Council programme and to making sure that there is advice and resource for schools for young people's mental health and well-being.

The new Step Up Stay Safe programme is in collaboration with Children's Social Care under the umbrella of the work to prevent exploitation. It addresses both young people's fears about safety and the risky behaviours linked to the recent incidents of large gatherings after school and disorder. It will contribute to the lost hours campaign. Strands of this programme engage different services in the council and beyond with schools and the police as key partners. All are expected to contribute resources.

School Improvement Contingency Reserve - £20,000
Supporting evidence

A small cushion to carry forward for BDSIP if required in relation to development in second year of trading.

INCLUSIVE GROWTH - £250,000

Funding for specific research, commissioning and projects to support the Council's Inclusive Growth agenda.

PEOPLE AND RESILIENCE COMMISSIONING

Source of Grant Income	Service	Description	Amount £	Ring-fenced	Justification for carry forward
Department of Education (DfE)	Children's Care & Support Commissioning	Improving Out-of-School Settings	135,000	Yes	The grant was released to LBBD in the third quarter of 2018/19 but the objectives of the grant cannot be met in the outgoing year. It is expected that the outcomes spelt out in the grant's MOU would be achieved in 2019/20
Department of Education (DfE)	Children's Care & Support Commissioning	Expanding Capacity in Children's Secure Estate	80,000	Yes	This grant has been awarded but its release is expected to be in the fourth quarter of 2018/19. Though the period covered by the grant is stated to be between October 2018 and March 2019, the ensuing costs would be incurred in 2019/20 due to the lateness in release of the grant.
NHS England	Public Health	NHS Healthy New Towns	101,500	Yes	The grant is released in quarterly instalments on the basis of invoicing for completed work or approved work plan. NHS England expects LBBD to make claims for the year's grant before the end of the year on the basis of approved work plan. A substantial part of the planned work would be executed in 2019/20.

POLICY AND PARTICIPATION

Cost Centre	Funding Stream	Carry Forward (£)	Supporting Information for Carry Forward Request
Participation & Engagement	Lottery	5,544	Lottery Community Fund. 50p of every £1 donated is transferred into the Fund and is ringfenced as grant to Community groups
Participation & Engagement	Crowdfunding	48,000	Ringfenced for 2 years (request to Cabinet 18th Feb)
Participation & Engagement	Neighbourhood Community Infrastructure Levy (NCIL)	565,000	To distribute to Community Groups in the form of an Endowment. 15% allocation on total transfer to LBBD for each project, plus 15% of the 5% that BeFirst collects (see e-mail 11/2/19 re:NCIL) 'Large development commencing with a£3m CIL, which will up project pot & admin monies for either this or next yr'
Connected Communities	MHCLG	492,297	For a specific programme from Central Government
Cultural Commissioning	Arts Council	53,000	Grant from Arts Council for Pen To Print Project, which is a 4 year project within Culture & Recreation.
Cultural Commissioning	Greater London Authority (GLA)	25,000	For Creative Enterprise Zone funding.
Cultural Commissioning	**1**) Greater London Authority (LBOC Award) **2**) LA Income - match funding, **3**) Barking Riverside Ltd sponsorship	Up to £150,000	New Town Culture Project. 4 yr project from 2018 to 2021, which does not follow the fiscal year. Payments commencing late 2018/19, early 2019/20.
Insight Hub	Film Profit Trading Unit Carry Forward	20,000	As carried forward from 2017/18 - not transferred to cost centre until December 2018, so to be utilised in 2019/20

Appendix C

Changes to the Capital Programme 2018/19

The GF capital programme total was £157.489m as per the Cabinet report in September 2018 and has been revised to £194.405m for 2018/19. The HRA capital programme has not changed since September 2018.

This is broken down as follows:

Service	Sep 2018 Cabinet Budget £000	Jan 2019 Revised Budget £000	Comments
Care and Support	£1,618	£1,805	MHCLG provided an additional £187k towards the Disabled Facilities Grant for 2018/19. The service has spent 17% of the annual budget allocation in 2018/19.
Community Solutions	£349	£349	No change in budget since the Q2 report. The service has spent 16% of the annual budget allocation in 2018/19.
Core	£2,652	£2,652	No change in budget since the Q2 report. The service has spent 60% of the annual budget allocation in 2018/19.
Education, Youth & Childcare	£52,572	£53,572	The revised budget is because of the Schools Conditions Grant allocation reported to Cabinet in July 2018. The service has spent 86% of the annual budget allocation in 2018/19.
Enforcement	£7,916	£1,314	The revised budget decrease is as a result of some of the budget allocations being moved to My Place. The service has spent 42% of the annual budget allocation in 2018/19.
Culture, Heritage & Recreation	£4,480	£6,261	The revised budget increase is as a result of budget allocations being moved from Enforcement and Public Realm. Several new capital projects relating to parks regeneration that will be funded by grant, have been added to this service. The service has spent 56% of the annual budget allocation in 2018/19.
Investment Strategy	£693	£58,129	The Land Acquisition Programme budget has been revised to include the acquisition of Axa Land, The Cube and Welbeck Steel. The service has spent 11% of the annual budget allocation in 2018/19.

Service	Sep 2018 Cabinet Budget £000	Jan 2019 Revised Budget £000	Comments
Growth & Homes & Regeneration	£74,645	£38,160	The Street Purchasing Programme has been put on hold and this has led to a revised budget of £6,000k. The service has spent 64% of the annual budget allocation in 2018/19.
My Place	£0	£6,496	The revised budget increase is as a result of budgets being moved from Enforcement. The service has spent 64% of the annual budget allocation in 2018/19.
Public Realm	£1,581	£935	The revised budget decrease is as a result of budget allocations being moved to Culture, Heritage and Recreation. The service has spent 40% of the annual budget allocation in 2018/19.
SDI Commissioning	£3,190	£3,190	No change in budget since the Q2 report. The service has spent 92% of the annual budget allocation in 2018/19.
Investment & Acquisition Strategy	£0	£13,749	New to the capital program monitoring and relates to Be First projects. The service has spent 12% of the annual budget allocation in 2018/19.
Total GF	**£149,696**	**£186,613**	
HRA	**£90,352**	**£90,352**	No change in budget since the Q2 report. The service has spent 51% of the annual budget allocation in 2018/19.
Transformation	**£7,793**	**£7,793**	No change in budget since the Q2 report. The service has spent 19% of the annual budget allocation in 2018/19.

2018/2019 CAPITAL PROGRAMME - APPENDIX D

Project Name	2018/19 Revised Budget
Adults Care & Support	
Disabled Facilities Grant	**1,380,236**
Direct Pymt Adaptations	**400,000**
Adult Social Care Grant	**25,000**
Total for Adults Care & Support	**1,805,236**
Community Solutions	
Barking Learning Centre Works	**214,407**
Libraries Library Management System Tender	**60,000**
Upgrade & enhancement of Security & Threat Management Sys	**75,000**
Total for Community Solutions	**349,407**
Core	
Elevate ICT investment	**907,036**
ICT End User Computing	
Oracle R12 Joint Services	**190,273**
Customer Services Channel Shift	**106,884**
Implement Corporate Accommodation Strategy	**1,317,519**
Woodlands Repairs	**130,000**
Total for Core	**2,651,712**
Education, Youth & Childcare	
Primary Schools	
William Bellamy Infants/Juniors (Expansion)	**10,000**
Warren / Furze Expansion	**750,000**
St Joseph's Primary(Barking) Extn 13-14	**15,072**
Marsh Green Primary 13-15	**50,000**
Sydney Russell (Fanshawe) Primary Expansion	**20,657**
Gascoigne primary	**50,000**
Village Infants - additional pupil places	**30,000**
Gascoigne Prmy 5forms to 4 forms	**200,000**
Marks Gate Infants & Juniors 2018-20	**25,000**
Chadwell Heath - Additional Capacity	
Secondary Schools	
Jo Richardson expansion	**614,881**

P ro	Project Name	Revised Budget
	Robert Clack Expansion 13-15	**8,000,000**
	Lymington Fields New School	**6,000,000**
	Riverside Secondary Free School	**101,410**
	Eastbury Secondary	**650,000**
	Eastbrook School	**106,718**
	Dagenham Park	**100,000**
	New Gascoigne Secondary School	**16,000,000**
	Barking Abbey Expansion 2016-18	**12,000,000**
Children Centres		
030	Extension of Abbey children’s centre nursery	**125,842**
Other Schemes		
	School Expansion Minor projects	**312,285**
	Implementation of early education for 2 year olds	**196,708**
	School Conditions Allocation 2017-19	**477,882**
	Additional SEN Provision	**396,485**
	Pupil Intervention Project (PIP)	**451,605**
	SEND 2018-21	**645,716**
	School Conditions Allocation 2018-20	**3,000,000**
	Additional Works - Expanded Schools	**250,000**
	Place Demand - Contingency	
	Roding Primary Classroom Reinstatement	**1,500,000**
	School Condition Alctns 18-19	**1,000,000**
##	Devolved Capital Formula	**491,702**
Total For Education, Youth & Childcare		**53,571,963**
Enforcement		
02(	Consolidation & Expansion of CPZ	**487,420**
030	Environmental Asset Database	
040	Enforcement Equipment	**512,650**
030	Parking ICT System	**3,537**
040	Car Park Improvements	**146,398**
040	Flood Risk Management	**164,000**
Total for Enforcement		**1,314,005**
Culture, Heritage & Recreation		
030	Broadway Theatre	**500,000**

Pro	Project Name	Revised Budget
030	3G football pitches in Parsloes Park	**822,384**
030	Youth Zone	**2,834,000**
030	Eastbury Manor House - Access and egress improvements	**75,078**
040	Redressing Valence	
040	Reimagining Eastbury	**100,000**
030	Lakes	**102,118**
030	Abbey Green Restoration/Works	**3,541**
040	Community Halls	**23,991**
040	The Abbey: Unlocking Barking's past, securing its future	**50,000**
040	East London Industrial Heritage Museum	**75,000**
040	Fixed play facilities	**93,105**
030	Strategic Parks - Park Infrastructure	**59,230**
030	Old Dagenham Park BMX Track	**252,991**
040	Park Buildings – Response to 2014 Building Surveys	**139,658**
040	Parsloes Park regional football hub	**400,000**
040	Park Infrastructure Enhancements	**47,242**
040	Children's Play Spcs & Fac	**55,000**
040	Parks & Open Spcs Strat 17	**100,000**
040	Tantony Green Play Area	**197,455**
040	Central Park Masterplan Implementation	**100,000**
040	Valence Park Play Facility	**230,000**
Total for Culture, Heritage & Recreation		**6,260,793**
Investment Strategy		
025	Energy Efficieny Programme	**128,753**
030	Land Acquisitions 2016-18	**47,450,500**
030	Establishment of Council Owned Energy Services Company	
040	The Cube	**10,549,500**
Total for Investment Strategy		**58,128,753**

P ro	Project Name	Revised Budget
Inclusive Growth		
	Local Transport Plans	**96,900**
	Creative Industry (formerly Barking Bathouse)	**292,064**
	Gascoigne West (Housing Zone)	
	Renwick Road/ Choats Road 2014/15 (TfL)	**317,400**
	Barking Town Centre 2014/15 (TfL)	**272,100**
	Barking Riverside Trans link	**325,021**
	Bus Stop Accessability Improvements	**60,000**
	Kingsbridge Development	**4,892,418**
	Boundary Road Hostel: Critical Needs Homelessness Assessment and Support Centre	**234,879**
	Conversion & Redevelopment of Former Sacred Heart Convent, 191 Goresbrook Road, Dagenham - to convert to homeless provision	**8,407,180**
	Gurdwara Way - Land Rmdiation	**122,435**
	Sebastian Court - Redevelop	**3,526,723**
	Becontree Heath New Build	**12,457,491**
	Abbey Green & Barking Town Centre Conservation Area Towns	**263,000**
	Land at BEC - live work scheme	**16,937**
	Principal Rd Resurfcng 2013-14	**0**
	Mayesbrook Nghbrhd Imprv 13-14	**0**
	Abbey Road Infrastructure	**0**
	Thames View Cycle/Walking Link Improvements	**90,700**
	Cycle Schemes - Quietway CS3X	**99,800**
	Gale Street Corridor Improvements	**385,400**
	Street Property Acquisition 2017-19	**6,000,000**
	Bridges and Structures	**300,000**
Total for Growth & Homes & Regeneration		**38,160,448**

	Project Name	Revised Budget
My Place		
	Frizlands Phase 2 Asbestos Replacement	**2,136**
	HIP 2016-17 Footways & Carriageways	**2,161,093**
	Street Lighting 2016-2019 : Expired Lighting Column Replaceme	**2,608,876**
	Structural Repairs & Bridge Maintenance	**639,262**
	Capital Improvements	**65,755**
	Road Safety Improvements Programme (Various Locations)	**272,100**
	Replacement of Winter Maintenance Equipment / Gully Motors	**421,155**
	Engineering Works (Road Safety)	**325,926**
Total for My Place		**6,496,303**
Public Realm		
	Chadwell Heath Cemetry Ext	**298,254**
	Bins Rationalisation	**100,000**
	Refuse Fleet	**95,823**
	On-vehicle Bin Weighing System for Commercial Waste	**45,000**
	Equipment to reduce Hand Arm Vibration	**90,000**
	Vehicle Fleet Replacement	**305,902**
Total for Public Realm		**934,979**
SDI Commissioning		
	Conversion of Heathway	**2,661**
	Social Care IT Replacement System	**747,546**
	50m Demountable Swimming Pool	**2,439,654**
Total for SDI Commissioning		**3,189,861**
Investment and Acquisition Strategy		
	Gascoigne East Ph2	
	12 Thames Road	
	200 Becontree Avenue	
	Oxlow Lane	
	Roxwell Road	
	Crown House	
	Travelodge Dagenham	
	Church Street, RM10 9AX	
	To be allocated	**13,749,000**
Total for Investment and Acquisition Strategy		**13,749,000**
TOTAL GENERAL FUND CAPITAL PROGRAMME		**186,612,460**

P ro	Project Name	Revised Budget
HRA		
C&	**Investment In Stock**	
029	Conversions	**0**
030	Estate Roads Resurfacing	**400,000**
030	External Fabric inc EWI- Blocks	**0**
030	Decent Homes North 2017-19	**10,920,000**
030	Decent Homes South 2017-19	**10,920,000**
029	Decent Homes Central 2017-19	**6,562,500**
040	DH R&M Service	**11,306,400**
030	Decent Homes Support - Liaison Surveys	**0**
040	Electrical Lateral Replacement	**1,571,000**
0XX	Decent Homes 2016-22 Programme	
ana	**Investment In Stock**	
029	Communal Roof Replacements	**0**
029	Communal Heating Replacement	**1,300,000**
040	Domestic Heating Replacement	**500,000**
040	Box-Bathroom Refurbs (Apprenticeships)	**444,000**
030	Fire Safety Improvement Works	**2,194,500**
040	Lift Replacement Programme	**500,000**
g S	**Investment In Stock**	
030	Energy Efficiency inc Green Street	**0**
ty	**Investment In Stock**	
001	Aids And Adaptations	**1,100,000**
0XX	ESCO	
Ma	**Investment In Stock**	
029	Compliance (Asbestos, Tanks, Rewires)	**1,800,000**
030	Garages	**0**
040	Estate Environment Improvement	**0**
040	Public Realm Improvements	**130,000**

P ro	Project Name	Revised Budget
R&M	**Investment In Stock**	
029	Voids	**2,000,000**
030	Estate Public Realm Imp	**0**
030	Door Entry Systems	**50,000**
040	Minor Works & Replacements	**150,000**
030	Windows & Door Replacements	**0**
TBA	Internals	
TBA	Externals	
TBA	Communal / Compliance	
TBA	Estate Environmental Works	
TBA	Landlord Works	
	Investment In Stock	
030	Communal Repairs & Upgrades	**0**
029	Block & Estate Modernisation	**0**
030	Decent Homes (Blocks)	**0**
030	Decent Homes (Sheltered)	**0**
030	Decent Homes (North)	**0**
030	Decent Homes (South)	**0**
030	Decent Homes Small Contactors	**0**
029	Fire Safety Improvement Works	**2,500,000**
BA	To be allocated	
	Total	**54,348,400**
	Estate Renewal	
028	Estate Renewal	**13,250,000**
	Total	**13,250,000**
	New Build schemes	
028	Council Housing Phase III	
029	Lawns & Wood Lane	
029	Leys Phase 1	**226,058**
030	Leys Phase 2	**3,879,000**
030	Modular Programme	**4,499,000**
029	Marks Gate	**0**
029	Infill Sites	**13,700,000**
029	Bungalows (Stansgate,Mrgt Bon)	
029	Ilchestr Rd / North St New Build	
029	North St	
030	Burford Close	
	Total	**22,304,058**

Pro	Project Name	Revised Budget
030	Housing Transformation	**450,000**
TOTAL HRA CAPITAL PROGRAMME		**90,352,458**
TOTAL CAPITAL PROGRAMME 2018/19		**276,964,918**
Transformation Schemes 2018-19		
040	Be First	**80,846**
040	Community Solutions	**2,008,100**
040	Smarter Working Programme	**1,137,088**
040	Cross Cutting: Technology	**1,280,482**
040	Customer Access Strategy (CAS)	**971,324**
040	Customer Access & Workforce Development	
040	Enforcement	**82,498**
040	Parks & Open Spaces Commercialisation	**164,352**
040	Parks, Open Spaces & Cemeteries	**3,286**
040	Investment Opportunities	**79,963**
040	My Place	**517,114**
040	Refuse	**5,432**
030	Redesign Adults & Childrens Social Care	**659,252**
040	Leisure	
030	Traded Services	**350,483**
040	Home Services	**452,620**
040	Legal Services	**0**
TOTAL TRANSFORMATION CAPITAL PROGRAMME		**7,792,840**
TOTAL TRANSFORMATION CAPITAL PROGRAMME		**284,757,758**

CABINET

19 March 2019

Title: Amalgamation of Marks Gate Infant and Junior Schools to form a Primary School	
Report of the Cabinet Member for Educational Attainment and School Improvement	
Open Report	**For Decision**
Wards Affected: Chadwell Heath	**Key Decision:** No
Report Author: Andrew Carr, Group Manager, Admissions and Schools Investment	**Contact Details:** Tel: 020 8227 2254 Email: andrew.carr@lbbd.gov.uk
Accountable Director: Jane Hargreaves, Commissioning Director of Education	
Accountable Strategic Leadership Director: Elaine Allegretti, Director of People and Resilience	

Summary

This report presents a proposal for the amalgamation of Marks Gate Infant and Junior Schools to form an all-through primary school with effect from the start of the Autumn Term 2019 (academic year 2019/20).

This proposal has been initiated for the following main reasons:

- a single school is able to ensure a more consistent approach to teaching and learning for the children than two separate schools;
- the school can look at its management structure with a view to ensuring the best use of staff across the two schools. The combined expertise of the staff across one school would be greater than in the two separate schools;
- the school would have a combined budget and would therefore benefit from greater financial flexibility;
- the school will be able to rationalise the use of all resources and gain efficiencies including benefits from combining the individual school budgets and surplus balances carried forward from previous years.

Recommendation(s)

The Cabinet is recommended to agree the amalgamation of Marks Gate Infant and Junior Schools into one primary school with effect from 1 September 2019.

Reason(s)

To comply with the requirements of the Education and Inspections Act 2006 regarding changes proposed in the organisation and structure of schools.

1. Introduction and Background

1.1 The Council's policy has been to consider amalgamation of linked infant and junior schools whenever a headship is vacant or there are supportive reasons to make a change.

1.2 The management arrangements at Marks Gate schools have been through a process of change and are currently joined under a formal Executive Headteacher arrangement. There is also a single Governing Body. This has afforded an opportunity to examine the existing arrangements for organising the schools and the way in which the two schools are currently operating. The Executive Headteacher and Governing Body are keen to explore closer links between the two schools. The schools are suitable for amalgamation owing to their size (3 forms of entry – 90 pupils per year group) and their shared site.

2. Proposal and Issues

2.1 Technically, the proposal involves closing Marks Gate Infant School with effect from 31 August 2019 and changing the age-range of the existing Junior School. The age-range will be expanded from age 7 to 11 years to age 3 to 11 years with effect from 1 September 2019. All pupils on the school roll at the end of the Autumn Term 2019 will transfer onto the roll of the Primary School.

2.2 An interim governing body is to be established to focus on the amalgamation of the schools. This governing body will determine a new Instrument of Government, in accordance with the Education School Governance (Constitution) (England) Regulations 2003, once the Primary School is set up.

2.3 This proposal will set a uniform standard number of 90 pupils per year group and will give consistent provision across all the age ranges.

2.4 The benefits of this proposal will include:

- An amalgamated school would ensure schemes of work and approaches for the children are consistent as they get older.
- The school would have a combined budget and therefore would benefit from greater financial flexibility.
- The school would use a rationalised management structure to ensure the best use of staff across the schools. The combined expertise of the staff across one school would be greater than in the two separate schools.

2.5 On amalgamation of the schools, any current extended school services offered by Marks Gate Infant and Junior schools will continue in the same way, unless the school decides otherwise.

3 Options Appraisal

3.1 As indicated in above, there was a dialogue with representatives of the Governing Body to explore options. There was in-principle support for an amalgamation and it was agreed to begin the statutory consultation process.

3.2 Further, Marks Gate Junior School was judged a ‘Good’ School at its last Ofsted Inspection in October 2018. On 20 September 2016 the Infant School was inspected and dropped from a ‘Good’ rating to ‘Requires Improvement’. The infant school was re-inspected in early January 2019 and the team recognised the improvements made, including effective support from the local authority. The report published on 31st January judged the school as being good.

3.3 Amalgamation is recommended as the preferred option, as opposed to continuing with the current two school arrangement. The Local Authority supports this approach as the next phase of delivering improvements for both schools.

3.4 An alternative option is to close both schools and seek to open a new school to meet the needs of pupils within the area. The circumstances in which a Local Authority may establish a new school are very limited and do not apply here. Instead, there is a “free school presumption”, which requires that the Council seeks proposals to establish a free school where there is an established need for a new school in the area.

3.5 The final alternative option is to ‘do nothing’ and maintain current arrangements for two separate schools.

4. Consultation

4.1 Consultation regarding the amalgamation of the schools has taken place and includes discussions at Governing Body meetings on 17 October and 12 December 2018. A letter was sent to parents, carers, guardians and pupils of both schools on 30 October 2018. The letter was also distributed to all staff, staff representative bodies and to the existing Governors of the schools.

4.2 A Notice was published in The Barking & Dagenham Post on 9 January 2019. The notice period ended four weeks from the date of publication on 5 February 2019. The notice was on display at the main public libraries in Barking & Dagenham and on both the Infant and Junior School notice-boards.

4.3 Therefore, parents have had the opportunity to raise any concerns or issues. No responses were received regarding the letter sent to parents, carers, guardians and pupils of both schools on 30 October 2018. Similarly, no responses have been received following the Notice published on 9 January 2019.

5. Financial Implications

Implications completed by: Feroza Begum, Group Accountant, Finance

5.1 The schools have been advised of the financial impact on their budgets. The school funding formula provides tapered financial protection for amalgamating schools through adjustment to the lump sum.

5.2 In broad terms, school budget allocations are determined on pupil and premises led factors. The latter includes a fixed lump sum of £124k paid on a per school basis in recognition of fixed costs.

5.3 In the year of amalgamation (the 2019/20 financial year), the new combined school will continue with the combined budget of the two separate schools for the remainder of the year. This will mean retaining the two lump sums in respect of the two individual schools (£248k). The year following amalgamation (2020/21), the new school would retain 85% of the combined lump sum for the previous two schools (£248k at 85% protection as prescribed by the DfE = £211k).

5.4 Under current funding regulations, in the second year after amalgamation (2021/22), the Local Authority can choose to continue to apply protection not exceeding 70% (£174k) of the combined lump sum subject to approval by the DfE. At the end of this transition period, the new school would receive a single lump sum from 2022/23 onwards.

5.5 In addition, there will be a reduction in the devolved formula capital allocation which is allocated on a per school basis. Devolved formula allocations for Infant and Junior schools for 2018/19 are £7k and £8k respectively. After amalgamation, allocation would be reduced to only one allocation for the primary school. However, this should not have any significant effect on the school's budget or on the projects planned for the forthcoming budget settlement.

5.6 The amalgamation would allow the school to rationalise the use of resources and gain from economies of scale by combining operations and streamlining procurement of services. It is important that this process is carefully managed and monitored by the governing body to ensure that the impact for the school budget is maximised and that the 2017/18 closing deficits (£88k Infant deficit balance and £15k Junior deficit) are cleared.

5.7 All costs related incidental or otherwise to this proposal will be met from within the school budget share allocation.

6. Legal Implications

Implications completed by: Lucinda Bell, Education Lawyer, Law and Governance

6.1 The report recommends that the Council takes a course of action available to it under the statutory processes relating to school reorganisation. Both schools are maintained by the Local Authority.

6.2 The alternatives as given in the body of the report are:

- That the Council does nothing, leaving the existing schools as they are.

- Alternatively, to create a through school: both schools could be closed and a new free school opened, as required by s6A of the Education and Inspections Act 2006 (the "free school presumption"). A sponsor would be needed and the Council would no longer maintain the school.

- Finally, the Council may make use of the statutory processes relating to school organisation, by closing one school and expanding the other. This option is in line with Council policy.

6.3 The relevant law is contained in Part 2 and Schedule 2 of the Education and Inspections Act (EIA) 2006 as amended by the Education Act (EA) 2011. There are two relevant sets of regulations, the School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2013 and the School Organisation (Permitted Alterations to Maintained Schools) (England) Regulations 2013. The process for closing a Local Authority maintained school is described in the Department for Education (DfE) statutory guidance of November 2018. There is separate statutory guidance relating to making significant changes, October 2018. These describe how and why an authority may close a school, including wider school organisation such as amalgamation. To amalgamate two schools the Local Authority can propose to close one school and propose to change the age range of the existing school in order to accommodate displaced pupils. The remaining school retains its original school number because it is not a new school.

6.4 The two proposals are related and this must be made clear in the formal and informal representation periods, in published notices and proposals. The decisions must be considered together and the decisions made at the same time.

6.5 In order to close a maintained school the Council must follow this guidance in order to act lawfully.

6.6 The Authority may close or discontinue a school under s15 of the Education and Inspections Act 2006. It must follow the statutory process. The Council or Governing Body may propose the closure. Here the proposer would be the Council. After completion of the statutory process the decision will be that of the Council. The local Diocese would have the right to appeal against the decision. The decision must be made within a two-month period following the end of the representation period. Should a decision not be made by that time the proposal must be referred to the Schools Adjudicator. The Authority is proposing the change in age range, which must be done by following the statutory process because it a proposed change of 3 years or more.

6.7 In respect of both the discontinuance and the change in age limit, the Council is required to follow a two-stage process: to consult with interested parties (families of the pupils, staff, trade unions and governing bodies) and to then publish its proposals. The consultation period is not prescribed in statute. However, the Department for Education provides a recommendation of 6 weeks. The Council must demonstrate how it considered the views of the consultees. At the end of that period, the Council is required to publish its proposals to discontinue the Infant School and extend the age range of the Junior School. The published proposals should state that the two proposals are dependent i.e. one will not be implemented without the other.

6.8 It is essential that the published notices comply with the statutory requirements as set out in the Regulations otherwise they may be judged invalid.

6.9 Once proposals are published, a 4 weeks statutory representation period must follow during which comments on the proposals can be made. A copy of the notice and proposal must be sent to the relevant DfE department within a week of publication.

6.10 The Council will make the final decision following that period. A copy of the decision must be sent to the DfE.

6.11 Once approved, the proposals must be implemented as published.

6.12 There will be changes in school governance as a result of these proposals but the school will remain a Local Authority maintained community school with a single governing body for the future. The consultation process is designed to support these changes.

7. Other Implications

7.1 **Risk Management** - These proposals effectively close the Infant School and expand the Junior School to form a primary school covering the age range 3-11 years. The risks to the proposal are minimal. The headteacher is in post and has led both schools successfully through Ofsted inspections earlier this academic year. The headteacher and governing body have clear and convincing plans for further improvement and the amalgamation will support their implementation.

7.2 **Staffing Issues -** Staff at both schools will be informed that their employment will be with the Primary School with effect from 1 September 2019 and that all other terms and conditions of their contract of employment remain the same.

7.3 **Property/Asset Issues -** The amalgamation of the two schools will allow for a pooling of asset related revenue budgets, and the ability to manage property costs over both buildings, which will support a better maintenance regime. It is proposed that from the initial capital budget of £3.0m to support amalgamation and expansion that £1.5m be set against the amalgamation proposal. The aim will be to achieve in particular a new entrance/reception using the existing Junior School staffroom which will provide a new nursery, and because of the existing nursery's location, change its function to become a joint staff room. In addition, more specialist SEN facilities will be created to help support pupils with additional needs in a mainstream setting. The remaining £1.5m of the £3.0m budget is to be retained for potential expansion of the school at a future date.

7.5 **Contractual and Procurement Issues -** It is anticipated that projects will be procured through options related either to the Local Education Partnership, open competition or through the Council's Framework of Contractors or other national or local frameworks which are accessible to the Council, with a view to securing value for money.

It should be noted that if there are contracts held by either school, they will need to consider either novating the agreements to the new entity or allowing assignment rights to the new entity by the contracting parties. This will safeguard the new entity from being out of contract. In addition going forward, as the two schools' buying power will be assimilated into one, this may push spend levels up so they will need to consider EU legislation thresholds when re-procuring.

Legal, procurement, technical and other professional advice will be sought regarding the appropriate procurement routes and contractual agreements to procure and secure individual projects. All procurement activity will be conducted in compliance with the Council's Contract Rules and EU legislation.

Projects will be subject to the Capital Appraisal Process and the agreement of the Procurement Board to progress schemes.

Public Background papers used in the preparation of the report: None

List of appendices - None

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CABINET

19 March 2019

Title: Contract for the Provision of a Domestic and Sexual Violence Service	
Report of the Cabinet Member for Social Care and Health Integration	
Open Report	**For Decision**
Wards Affected: All	**Key Decision:** Yes
Report Author: Hazel North Stephens, Domestic Abuse Commissioner	**Contact Details:** Tel: 020 8227 5969 E-mail: hazel.northstephens@lbbd.gov.uk
Accountable Director: Mark Tyson, Adults Care and Support Commissioning	
Accountable Strategic Leadership Director: Elaine Allegretti, Director of People and Resilience	

Summary:

The Council currently commissions several separate services to tackle domestic and sexual violence which are delivered by external voluntary sector providers. These contractual arrangements end during 2019 and the provision will need to be re-tendered.

The intention is to bring the provision together under one service provider which will include elements of refuge, advocacy, therapeutic support and community engagement. The new strategic partner will deliver a service which can be adapted to the changing needs of residents and fluctuating budgets, as well as bring several extra layers to the borough, including the ability to seek out potential funding streams to strengthen sustainability through the service.

This report seeks permission to procure and award a new contract for delivering an outcomes-based domestic and sexual violence support service and the extension of the current advocacy contract for a three-month period up to 30 September 2019, to align it with the end of the other contracts prior to the commencement of the new service.

Recommendation(s)

The Cabinet is recommended to:

(i) Agree, in accordance with the provisions of clause 6.6(h) of the Council's Contract Rules, to waive tendering requirements and directly award the contract for the provision of an Independent Domestic and Sexual Violence Advocacy Service for a three-month period up to 30 September 2019;

(ii) Agree that the Council proceeds with the procurement of a contract with a strategic partner to deliver outcomes based Domestic and Sexual Violence Services with effect from 1 October 2019, in accordance with the strategy set out in the report; and

(iii) Delegate authority to the Commissioning Director of Adults Care and Support, in consultation with the Cabinet Member for Health and Social Care Integration and the Director of Law and Governance, to conduct the procurement and award and enter into the contract(s) and all other necessary or ancillary agreements with the successful partner, in accordance with the strategy set out in the report.
Reason(s) The Council has committed to the vision of ‘One borough; one community; No one Left Behind’, and domestic and sexual violence directly threatens this vision. The Borough Manifesto sets domestic violence as a clear priority and the developing Health and Wellbeing Strategy puts forwards the need to work closely with and for our residents to tackle violence and abuse.

1. Introduction and Background

1.1 The following acronyms may be used throughout this document:

- VAWG: Violence Against Women and Girls
- LCPF: London Crime Prevention Fund (MOPAC Monies)
- IDSVA: Independent Domestic and Sexual Violence Advocacy

1.2 The domestic and sexual violence strategy ended in 2017 and a new strategy has now been agreed on an interim basis through the Health and Wellbeing Board. The new strategy: Ending Violence Against Women and Girls 2018-2022 sets out the plans to re-shape services better to fit the needs of our residents, and to integrate better with Community Solutions and Children’s Care and Support. It also supports the move to a trauma-informed and gender-informed approach.

1.3 There is a need for a consistent level of support services in Barking and Dagenham. The borough has a high prevalence rate for domestic abuse, and there were over 2000 referrals to children’s safeguarding in 2017/18, with 80% being for domestic violence and 20% being for other violence against women and girls’ strands, such as female genital mutilation, so called ‘honour’ based violence and forced marriage.

1.4 Domestic violence is a clear demand driver and impacts all areas of business. It impacts demand for housing, social care and health services and has fiscal costs of £13.8million in Barking and Dagenham every year. If we include the socioeconomic costs this increases to somewhere in the region of £60million each year.

1.5 We have high acceptance levels of abusive behaviour amongst our young residents with a 2017 school health survey showing 26% of young people thought there were times it is ok to hit your partner and 27% reported experiencing domestic abuse with a boyfriend/girlfriend. This was from Barking and Dagenham’s year 8, 10 and 12 students (sample size over 2500).

1.6 This normalisation of abuse at such a high level has prompted a press release regarding the Council’s intention to launch a commission specifically in relation to the attitudes and perceptions in the borough relating to domestic abuse. This will create evidence-based recommendations on how we can create changes in the tolerance and acceptance of abusive behaviour locally.

1.7 A Domestic Abuse Commission Terms of Reference has been drafted and has been presented to the Corporate Strategy Group in February 2019 for discussion and clarity on moving it forwards. The Chief Executive will sponsor the commission, in recognition of the need to champion the commission from a whole systems approach, and it will be supported from several service areas: commissioning teams, operational teams, public health, and the insights team.

1.8 The commission will last 12-18 months and there is likely to be learning put forwards at several points over its term.

1.9 The successful delivery partner for the tender this document covers will be required to work alongside the Commission, sharing datasets and linking service users to workshops and focus groups etc. There may also be the opportunity for using specific geographic or service areas as testbeds for small projects as part of test and learn pilots. Therefore, the delivery partner will need to be responsive and adaptive to working alongside the commission.

1.10 The successful delivery partner will also need to work closely with the Children's Care and Support Target Operating Model, which is developing a relational response to several social factors affecting families in Barking and Dagenham. This will be made clear in the service specification and will also include close working relationships and service delivery alongside our Child Protection team.

1.11 The development of the Ending VAWG strategy showed some clear gaps and conflicts with the current provision:

- The services feel disjointed, incoherent, and fragmented (for residents, for us and for partners).
- Survivors still report not being believed, or not receiving a sympathetic response across statutory services.
- The response is risk rather than needs led, with a heavy focus on crisis intervention and little provision for early validation and help-seeking, or with reconnecting survivors back into the community post crisis intervention.
- There are scarce community resources for perpetrators who want to change.
- The independent nature and capacity of current advocacy service integrates poorly with statutory services
- There is scarce therapeutic community resource targeted at young people experiencing domestic violence
- Staff attrition has caused several concerns within the advocacy service both in current provision and historically. The feedback from advocates is that they want to work for specialist rather than general services.
- We have no specialist support for men despite the current service being able to provide advocacy for men. Feedback shows this service is still viewed as a women's service.
- We lack specialist support for LGBT, BME and disabled people, and LGBT residents have told us that the service is not visible enough to them.
- The demands on an external provider with limited funding requires some management of expectations. The specification will be developed closely with key stakeholders in order to ensure the best value for money going forwards.

- Victims with no recourse to public funds are not able to access refuge provision and the options through advocacy can be limited. The future provider must have a good knowledge of supporting and working with no recourse to public funds cases.

1.12 We currently fund the following projects and services. The first three listed - Refuge Accommodation, IDSVA Service and Domestic Violence Treatment Programme - will be included within the tender:

Project/Service	**Provider**	**Activity**	**Cost**	**Funding Stream**
Refuge Accommodation	Hestia	Refuge accommodation provision, 13 bed spaces across 2 sites. 6 months move on, support 26-28 women and their families each year.	£131,939 pa	General Fund
IDSVA Service (independent domestic and sexual violence advocacy)	Victim Support	Advocacy and support provision working with around 400 people per year. Crisis intervention only.	£236,905 pa	Public Health Domestic Violence Budgets: £156, 905 HRA: £40,000 LCPF: £40,000
Domestic Violence Treatment Programme	Post Holder (agency)	Community Against Violence and Abuse programme for children and mothers	£30,000	Public Health Domestic Violence Budgets
VAWG Counselling	Ashiana Network and Women's Trust	Specialist Counselling for women	£33,000	LCPF (Agreement for £13,000 to be allocated toward this from the LCPF for years 2019/20 and 2020/21)
Diversionary Programme in Schools	Arc Theatre	VAWG empowerment and peer education programme	£13,000	LCPF (Agreement for £25000 to be allocated in 2019/20 and £30,000 in 2020/2021)
Caring Dads	Internal	Delivered by Children's Care and Support	£7000 per group (£21,000 agreed for 2018/19)	Public Health Domestic Violence Budgets
MARAC Coordinator	Internal	Delivered by Community Solutions	£50,000	Public Health Domestic Violence Budgets
Domestic Abuse Commissioner	Internal	Adults Care and Support Commissioning	£50,000	Public Health Domestic Violence Budgets
Total			**£568, 844**	

2. Proposed Procurement Strategy

2.1 Outline specification of the works, goods or services being procured

2.1.1 This report presents a procurement strategy that will commission an outcome-based domestic and sexual violence service in Barking and Dagenham to commence on the 1st October 2019.

2.1.2 We intend to seek a VAWG strategic partner to deliver a service which can be adapted to the changing needs of residents and fluctuating budgets. We intend to identify a VAWG strategic partner that will bring several additional layers to the borough, including the ability to seek out potential funding streams to strengthen sustainability throughout the service.

2.1.3 The VAWG strategic partner will deliver a needs-based domestic and sexual violence service that meets national guidelines for Violence Against Women and Girls Commissioning and fulfils the Council's obligations and commitments to tackle domestic and sexual violence.

2.1.4 This will allow for the identified VAWG strategic partner to adjust service delivery to respond to emerging trends, population changes and/or budget changes, whilst delivering against key outcomes.

2.1.5 It is anticipated that the specification for the new service would deliver scope for better balancing capacity of the new service to achieve the following:

- Delivering the refuge accommodation support service. The successful delivery partner for this support service must be prepared to take on the housing management service delivery and enter into contract with L&Q Group who have ownership of the two buildings being used for refuge accommodation. Where a provider is not already in contract with L&Q, L&Q will need to undertake a full vetting of the organisation and confirm they are able to contract with them to deliver housing management.
- Improving LBBD's domestic and sexual violence outcomes in relation to repeat victimisation, improved early intervention and improved connection to support for victims, perpetrators and children.
- Earlier identification of domestic abuse across universal and statutory services, community and voluntary sector groups and from our residents. Earlier identification and good quality access to support will counter escalation and reduce the levels of high harm domestic violence.
- Improving availability and access to good quality trauma-informed support for victims and their families, helping to 'break the cycle.' This will include a clear 'front door' so victims are able to understand the options available to them, and are empowered to make informed decisions.
- Improved links between domestic and sexual violence services and other commissioned services working with adults and young people, particularly those at risk of poor health outcomes: substance misuse, mental health, offending, healthy lifestyles, employment support etc.
- Improving health outcomes for vulnerable groups, particularly children and young people exposed to domestic violence, through effective partnerships with schools, colleges, health, police and other statutory early help, and children's

care and support.
- Improved links between domestic and sexual violence services and community resources that can tackle the isolation experienced by people impacted by domestic and sexual violence.
- Protecting the vulnerable from perpetrators of domestic violence by disrupting the perpetrators offending behaviour and offering opportunity for behaviour change.
- More effective engagement with residents to empower them to better identify and respond appropriately to domestic and sexual violence
- Gender informed provision will ensure that women who are victims are able to access women-only spaces, and that men who are victims can also access specific men's provision.
- Increased visibility and accessibility to all residents and employees, particularly those who face additional barriers to accessing support such as people from LGBT communities, or disabled people etc.
- Trauma-informed provision will ensure that engagement is effective, and that the physical, emotional and psychological safety of the victim and their family is assured.

2.1.6 The are several outputs that will need to be delivered including:

- A single front door with one phone number, one referral form, assessment and transfer into appropriate support.
- Refuge Accommodation
- Advocacy and Support (1:1)
- Therapeutic support (group) for adults and for children affected by domestic abuse
- Sanctuary schemes
- A response to people using abusive behaviours
- Community engagement and awareness raising
- Volunteering Opportunities, peer mentoring and peer support development

2.1.7 We want the provider to be able to adapt to existing offers, cross refer with them, and provide some capacity building across the partnerships under the Community Safety Partnership, Health and Wellbeing Board, and Safeguarding boards.

2.2 **Estimated Contract Value, including the value of any uplift or extension period**

2.2.1 The intention is to waive the contract rules and directly award the contract for the provision of the current IDSVA contract from the 30th June 2019 to the 30th September 2019 to bring the refuge accommodation contract and IDSVA service contract end dates into alignment. The cost for this will be £59,226.25 and this is set out under section 4 as a waiver.

New 5-year (3+2) Contract 1st October 2019 – 30th September 2024.

2.2.2 The estimated total cost for the contract duration is £2,520,000, this is based on spend of the individual elements of support required in the last 3 years as set out in the table in section 1.

2.2.3 The service will initially be funded from several streams, currently set out per annum as:

Funding Stream	Allocation
Public Health Grant	£280,000
General Fund	£135,000
HRA	£40,000
Agreement for Safer Homes Project to be included:	£49,000
Total:	**£504,000**

2.2.4 This does not include funding from other potential streams such as the London Crime Prevention Fund or the Troubled Families budget. The LCPF budget has been agreed for the next two financial years and will include £13,000 per year towards VAWG counselling and £25,000-30,000 from the LCPF and the Early Intervention Fund to local community sector groups. This will include Arc Theatre who deliver Raised voices – an empowerment and education programme for girls, with a peer education element making use of forum theatre and drama activities.

2.2.5 There will be a clear requirement for the successful strategic partner to respond quickly to positive and potentially negative fluctuations in budgets, and to be able to identify potential funding streams to strengthen our offer to residents.

2.2.6 The total value of the contract is as follows:

Year 1	Year 2	Year 3	Year 4 (optional)	Year 5 (optional)	Total
£504,000	£504,000	£504,000	£504,000	£504,000	£2,520,000

2.3 **Duration of the contract, including any options for extension**

2.3.1 Waive the contract rules and directly award the contract for the IDSVA contract extension under waiver from 30th June 2019 to 30th September 2019

2.3.2 A three-year contract from 1st October 2019 to 30th September 2022 with the option to extend for a further 2-year period to 30th September 2024 (3+2) at the sole discretion of the council.

2.4 **Is the contract subject to (a) the (EU) Public Contracts Regulations 2015 or (b) Concession Contracts Regulations 2016? If Yes to (a) and contract is for services, are the services for social, health, education or other services subject to the Light Touch Regime?**

2.4.1 This procurement is subject to the Public Contracts Regulations 2015 and as a social care service is subject to the Light Touch Regime. However, because the estimated value of the contract is higher than the set threshold (currently EUR750,000), it needs to be opened to competition and be advertised in the Official Journal of the European Union (OJEU) as required by the Regulations.

2.5 **Recommended procurement procedure and reasons for the recommendation**

2.5.1 A competitive open market tender is proposed to take place by 24th June 2019 to procure a new domestic and sexual violence service and award a contract to commence 1st October 2019 and run to 30th September 2022, with the option to extend for a further 2-year period to 30th September 2024 (3+2) at the sole discretion of the council.

2.5.2 The service will be procured in line with the Public Contract Regulations 2015 through a 'light touch regime' and line with the Councils contract rules. The tender opportunity will be advertised in OJEU, on the Council's e-tendering portal (Bravo), Contracts Finder and the Council's website. The process will widen the competition and ensure the Council gets best value for money for this service.

2.5.3 This proposal is designed to reflect the VAWG Strategy that was endorsed by Corporate Strategy Group on 19 July 2018 and subsequently approved at the Health and Wellbeing Board on 7 November 2018.

Procurement and Governance Timetable-

People and Resilience Management Group	29 November 2018
Portfolio	18 December 2018
Procurement Board (Sub)	7 January 2019
Procurement Board (Main)	21 January 2019
Prior Information Notice (PIN)	February 2019
Cabinet	19 March 2019
Provider Engagement Event	25 March 2019
Issue Contract Notice (ITT)	w/c 1 April 2019
Clarification Deadline	16 May 2019
Return Tenders	23 May 2019
Tender Evaluations	27 May – 7 June 2019
Award Report Approval and Sign off	10 – 21 June 2019
Provisional Award (Notify successful/unsuccessful tenderers	24 June 2019
Standstill Period	25 June - 5 July 2019
Final Award	8 July 2019
Mobilisation including potential TUPE Transfers	9 July- 30 September 2019
New Contact Commencement	1 October 2019

2.6 **The contract delivery methodology and documentation to be adopted**

2.6.1 For the 3-month IDSVA contract direct award under waiver (section 4) from 30th June 2019 to 30th September 2019, the contract document will be a Deed of Variation, to vary the termination date of the contract.

2.6.2 The Council's standard terms and conditions will be used for the delivery of this service. A no fault break clause will be included allowing notice to be given by either party for termination. This is relevant due to the anticipated changes to funding in April 2020 relating to the Public Health Grant and the use of business retention rates. This allows increased flexibility should a significant change in service provision or relating to funding streams be required. Terms and conditions will also take account of changes in the law, which may be relevant for the work currently being undertaken to introduce new legislation in the form of an expected Domestic Violence Bill.

2.6.3 It should be understood that the successful delivery partner must be prepared to take on the refuge accommodation housing management service delivery and enter into contract with L&Q Group who have ownership of the two buildings being used for refuge accommodation. Where a provider is not already in contract with L&Q, L&Q will need to undertake a full vetting of the organisation and confirm they are able to contract with them to deliver housing management. All documents are embedded at the end of this document. Also, if the housing management contract is closed with L&Q Group, the delivery partner would no longer be able to fulfil the refuge accommodation element of this domestic and sexual violence contract and would therefore no longer receive the funds in order to do so. This will be outlined within the contract terms.

2.6.4 The management responsibility for the contract lies with Adults care and support commissioning and the contract will be managed in line with a contract management plan to be set out within the final specification.

2.6.5 Service performance will be monitored through a series of Key Performance Indicators (KPIs) as detailed in the service specification that includes quantitative and qualitative data, service user feedback and activity on outstanding action plans reviewed at quarterly meetings.

2.7 **Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract**

2.7.1 The outcome expected as a consequence of awarding the proposed contract is to improve the social, economic and health outcomes of the population across the borough by building an effective, responsive and high quality domestic and sexual violence service, which effectively meets the needs of our local community and offers a range of high quality, needs-led services which will target those most vulnerable in our borough.

2.7.2 As set out in the Health and Wellbeing Strategy and the Violence Against Women and Girls Strategy the outcomes we wish to achieve for our residents are to:

- Residents can recognise violence and abuse and know where to get help.
- Victims are able to access clear routes to housing support, and support with

keeping themselves and their children safe

- Residents can identify abusive behaviour and inform the right agencies so that people using abusive behaviour are held to account and victims and their children are supported to get effective help
- Children and young people are supported to understand their experiences of domestic abuse and can lean on positive coping strategies and good quality community networks to support healthy development
- Children and young people know about positive relationships and abusive behaviour and can identify where to get help.
- Survivors can access services to help them process and understand their experiences, and to reduce their vulnerability to any recurrence.
- Perpetrators of abuse are stopped from re-offending and are supported to change where appropriate and safe to do so.
- Where behavior change efforts are not appropriate, perpetrators are disrupted from repeat offending through civil and criminal law enforcement, and through tactical operations such as Operation Dauntless (an Operation that tackles high harm repeat offenders that affect multiple victims)
- Residents are able to set up peer support networks across the borough and can help families to connect with positive and healthy lifestyle activities to tackle isolation.
- Service users can identify, work towards and achieve their education, employment and training goals, and are encouraged to develop aspirations for themselves and their families.
- Schools are better able to recognise the early signs of childhood trauma and adversity, and are supported to respond, referring into the service as appropriate. This includes being aware of Operation Encompass and how this interrelates with MASH, MARAC and the domestic and sexual violence services.
- The service supports the Councils Gender Equality Charter and raises awareness of the correlations between domestic and sexual violence and gender inequality.

2.7.3 Additionally, we want to see a reduction in harm to victims, families and the wider community. We will be working closely with the Community Safety Partnership, Health and Wellbeing Board and Safeguarding Boards to ensure that the service specification integrates with the trauma-informed health intervention model developed with local schools and the voluntary sector.

2.7.4 The service specification will make clear the expectation to include connection to and close partnership working with existing services, as part of an effort to focus on resilience building for individuals and their families.

2.7.5 It is recognised nationally that spending money on domestic and sexual violence services can save significant amounts of money further down the line to both health and non-health (including local authority) services.

2.7.6 Analysis by Trust for London and the Henry Smith Charity highlights the costs of domestic violence to the public purse across England – a minimum of £5 million each week in every region.

2.7.7 In England the estimated total costs of domestic violence are £5.5bn which comprises:

- £1.6bn for physical and mental health costs
- £1.2bn in criminal justice costs
- £268m in social services costs
- £185.7m in housing and refuge costs
- £366.7m in civil legal costs (legal aid, family courts, family court advisory services etc.)
- £1.8bn in lost economic output

2.7.8 The highest total costs in England are shown to include London. In addition, the human and emotional costs are estimated to be in the region of £26m per day. The inclusion of human and emotional costs ‘is based on the notion that people would pay something in order not to suffer the human and emotional costs of being injured. The Department of Transport developed its research programme to estimate the cost of injuries in order to identify the full cost of road traffic accidents as part of their cost-benefit analysis of whether building a new road was appropriate or not. The Home Office followed this methodology in estimating the cost of crime. It might be considered that if it is appropriate to include human and emotional costs in decisions on whether or not to fund the building of new roads, it is appropriate to include them in decisions on to whether or not to fund policies to reduce and eliminate domestic violence.’ From Professor Sylvia Walby’s 2009 update to her earlier work for government (2004) calculating the cost of Domestic Violence.

2.7.9 Locally, the costs have been estimated to be £13.8m fiscal costs and £60m including the wider social economic costs in Barking and Dagenham. This is based on reported figures to police services, and it is important to note that only 20% of victims report to the police so these costs are likely to be much higher.

2.8 Criteria against which the tenderers are to be selected and contract is to be awarded

2.8.1 It is proposed that a Quality/Price split of 70/30 is used in the assessment of tenders. For this service, there is a clear need to drive major innovation in quality of services. We are looking for a strategic partner who can adapt quickly to the changing needs in the borough and who have the skills, knowledge and experience to deliver against outcomes.

2.8.2 We require the 70/30 quality/price split in order to ensure good quality tenders. Value for money is clearly important, but in the case of domestic and sexual violence we require specialist knowledge and skills and leaning too heavily in favour of price leads to non-specialist service providers undercutting specialist providers in the sector, with poorer quality in terms of service delivery.

2.8.3 The scope of the contract will be published beforehand including the minimum requirements, award criteria and their weightings, and this will not be changed during the tender process. The whole process will be fully documented.

2.9 How the procurement will address and implement the Council’s Social Value policies

2.9.1 The Council’s social value responsibilities are taken through its vision: One borough; One community; No one left behind.

2.9.2 Through the award of the contracts to the providers, the Council will ensure service continuity that meet the needs of the local population, including provision of information, advice and support on a range of issues related to domestic and sexual violence, such as orders and interventions that may assist residents, and support with engaging with social care services, police, health, housing, employment etc.

2.9.3 Applications would be encouraged from providers able to demonstrate potential to muster additional social value across the council through the development of local employment opportunities as well as training and development of local volunteers and students/trainees, community and faith leads.

2.9.4 Applications will be encouraged from providers able to demonstrate an ability to meet the Councils strategic aims to protect vulnerable people whilst developing sustaining services and building resilient communities. Those able to demonstrate an ability to interface with other services of a similar nature to resolve the causes and symptoms of referrals would also be welcomed.

2.10 **Contract Management methodology to be adopted**

2.10.1 The contract will contain specific service requirements and expected outcomes. Key performance indicators will be outlined in the service specification and agreed with the providers. Commissioners will undertake performance management of the service.

2.10.2 Contract monitoring meetings will take place each quarter to review performance reports and contribute to the continuous development of the service. In addition, annual reviews will be required to be completed by the provider, to include feedback on contract outcomes.

2.10.3 Should the contract be extended at the end of the first three years to continue for a further two, the provider and commissioners will undertake a best value review.

3. Options Appraisal

3.1 Other options considered as an alternative option to the above are as follows:

3.1.1 **Do Nothing**

This option would not be recommended as these services are required to enable social inclusion and equality of opportunity for those with vulnerable backgrounds. There would also be a loss of opportunity to achieve better outcomes for service users who require access to refuge accommodation, advocacy and therapeutic support.

We know the costs of domestic violence alone are high, and that it drives demand across all areas of business. Withdrawing services to support residents at this preventative and health protection level will result in further investment being required in relation to health and social care costs associated with domestic and sexual violence.

It is important that appropriate contractual arrangements are put in place locally to cover such services, to minimise risk, reduce repeat victimisation and ensure value for money.

3.1.2 **Extend and maintain existing contract arrangements.**

The current contracts do not permit further options to extend, which would necessitate a need to tender, unless the relating contract rules were waived.

The current contracts have also been prohibitive in terms of innovation as multiple providers are delivering different elements of service, and there are no economies of scale that can be sought by coming under one contract.

3.1.3 **Extend the current IDSVA service contract by three months and undertake a competitive process for an outcomes-based domestic and sexual violence service.**

This would be the preferred option, given that stakeholder feedback and service reviews have highlighted areas of improvement required with the current contractual arrangements, and that we are looking to move towards a whole system approach to domestic and sexual violence.

There is evidence from domestic and sexual violence commissioning across the country that an outcomes-based commissioned service integrated within existing services gives greater scope for cost efficiencies in relation to provider overheads, particularly in relation to some of the more strategic leadership.

The procurement exercise will ensure compliance with the Council's Contract Rules and all Legislation and ensure continued provision of domestic and sexual violence services to residents beyond the contract end date of 30th September 2019.

4. Waiver

4.1 For the 3-month IDSVA direct award under waiver from 30th June 2019 to 30th September 2019, the contract document will be a deed of variation, to vary the termination date of the contract. The waiver to vary the end date of the contract by three month meets Rule 6.6(h) of the Council's Contract Rues in that the circumstances are genuinely exceptional.

4.2 This will assist with bringing the two main current domestic and sexual violence contracts (refuge accommodation and advocacy service) to the same end date, allowing for the new tender specification to include both elements under one service provider.

5. Consultation

5.1 As part of the need to re-tender Commissioners have reviewed the current service provision and pathways and undertaken analysis of referral activity etc. The local authority will be providing an open access, universally provided Domestic and Sexual Violence Service that will meet the need of the population. The service will allow for targeted provision for those parts of the population that have greater or more specific needs.

5.2 As part of the development of the Violence Against Women and Girls Strategy 2018-2022, commissioners undertook several stakeholder workshops, survivor consultation and interviews. This helped to highlight service gaps and conflicts and brought a better understanding of the need to ensure the service specification should be explicit in targeted provision for certain parts of the populace, namely: black and minority ethnic women, LGBT survivors and men.

5.3 Although the service will be open to the general population on equal terms there is a need to make more explicit, visible and accessible safe spaces for women experiencing domestic and sexual violence. For this reason, the service specification will make clear the expectations around how the needs of women are met, and how the needs of men are met.

5.4 It also highlighted the need to better address perpetrators through disruption tactics and through behaviour change programmes.

5.5 The proposals in this report were considered and endorsed by the Peoples Management Resilience Group (PMRG) at its meeting on 29th November 2018, as well as Member of Cabinet Cllr Worby portfolio meeting on 18th December 2018.

5.6 This proposal is designed to reflect the VAWG Strategy that was endorsed at Corporate Strategy Group on 19 July 2018 and subsequently approved at the Health and Wellbeing Board on 7 November 2018. The VAWG strategy was also presented at several other meetings including PRMG, Core Directors Group and Community Safety Partnership.

6. Corporate Procurement

Implications completed by: Adebimpe Winjobi, Senior Procurement and Programme Manager

6.1 This report seeks authority to waive the requirement to conduct a competitive procurement exercise for the provision of the current IDSVA contract from the 30th June 2019 to the 30th September 2019 to bring the refuge accommodation contract and IDSVA service contract end dates into alignment, in accordance with Contract Rule 6.6 (h) which relates to genuinely exceptional circumstances as set out in this report.

6.2 This report is also seeking approval to procure a contract for the provision of the domestic and sexual violence service. The service being procured falls within the description of services covered by the Light Touch Regime under the Public Contracts Regulations (PCR) 2015. However, as the estimated value of the contract is higher than the set threshold (currently EUR 750,000), it needs to be opened up to competition and be advertised in the Official Journal of the European Union (OJEU) as required by the Regulations.

6.3 In keeping with the EU procurement principles, it is imperative that the contract is tendered in a competitive way and that the process undertaken is transparent, non-discriminatory and ensures the equal treatment of bidders. The proposed procurement route to tender this service via EU Open Procedure will widen the competition, provide best competition to get best value for money for the Council and will be compliant with the Council's Contract Rules and EU Regulations.

6.4 The report gives details of the procurement procedure, evaluation criteria, award criteria and the timetable for the procurement exercise. All the above show evidence of a fair tender exercise, in accordance with the PCR 2015, which must be adhered to in compliance with the Regulation.

6.5 Corporate procurement will provide the required support to commissioners throughout the entire process.

7. Financial Implications

Implications completed by: Abdul Kayoum, Finance Business Partner

7.1 The total value of the contract is £2.520m over five years, with the option of terminating at the end of year three which would reduce the contract value down to £1.512m.

7.2 The service will be funded from several streams and most of it is Public Health funded (breakdown of funding stream above). The council is relying on these funding streams continuing and should any of them end we would need to consider alternative options in the first three years of the contract. As part of the negotiations with the preferred supplier it would be ideal to agree a favourable exit strategy.

8. Legal Implications

Implications completed by: Jonathan Bradshaw, Solicitor

8.1 This application falls into two parts. The First is a waiver to allow an extension of the existing arrangements. The second is authority for a Tender exercise to appoint new providers. There is a need for the end date of the existing arrangements to fall into place with the new arrangement.

8.2 The extension makes sense and is a preferred way forward. Approval should be given.

8.3 This is a substantial contract and, although the contract falls within the “Light Touch” definition, the value exceeds the upper limit. There must, therefore, be a full procurement, as set out in this paper.

8.4 Both strands of the application are proper and should proceed in the circumstances.

9. Other Implications

9.1 **Risk and Risk Management -** Potential procurement risks are outlined below:

Issue	Likelihood	Impact	Risk Category	Mitigation
Delay to/ failed procurement process	Medium	Medium	Medium	Set and follow a realistic timetable. Councils to negotiate short term contract with current provider in case of a delay or failed procurement
Financial risk- bidders’ prices higher than available budget	Medium	High	High	Service specification to be realistic and have flexibility on requirements from providers. Negotiation procedure is used for this process to allow dialogue with bidders to achieve a cost-effective service for the partnership
TUPE issues prevents new	Medium	Medium	Medium	Gather TUPE information early in project; get expert advice from legal

providers from tendering for service				services. Make information clear in ITT documents. Negotiate new contract with current provider as contingency plan for no tenders received
No tender received	Medium	High	Medium	High level of publicity around the soft market testing and tender launch in various contract register platforms and via the Council for the Voluntary Sector. Hold market engagement event. Clear service budget identified and new short-term contract negotiated with current provider
Reduced budget due to change from PH Grant to 100% business retention scheme	Low	High	Medium	The contract will have a break clause allowing notice to be given by either party for termination. This allows increased flexibility should a significant change in service provision be required.
Contract award decision challenged by unsuccessful provider(s)	Low	Low	Low	Procure contract in line with Council's contract rules and EU Public Contracts Regulations. Liaise with legal and corporate procurement departments at all stages and ensure documentation is kept.
Provider fail to meet contractual obligations	Low	High	Medium	Clear set of outcomes set out in service specification and agreed with provider. Detailed mobilisation period with sufficient time included in procurement plan. Robust and regular performance monitoring procedures, performance indicators and consequences of failure to meet them set out in service contract.

9.2 **TUPE, other staffing and trade union implications -** Eligible staff currently employed in the service will, in the event of change in service provision, transfer their employment to the new provider under the Transfer of Undertakings (Protection of Employment) Regulations 2014. All TUPE information will be made available. Responsibility for assessing TUPE requirements will remain with the bidding providers.

9.3 **Corporate Policy and Equality Impact -** Tackling domestic and sexual violence is a key priority for the council and is a specific target in the Borough Manifesto. Domestic and sexual violence services help deliver the 'Empowering People' priority set out in the Corporate Plan, by enhancing the inclusion and equality of opportunity for people who are vulnerable as a result of the violence they have experienced. The specification will make clear the need to include resilience building within communities to assist with this focus.

The procurement exercise will lead to better services contributing to delivering key outcomes. As such there are no negative impacts on any of the protected characteristics as set out in the Equality Act. In fact, it is expected to lead to a wider more inclusive service offer including gender informed provision and services for the LGBT community. An Equality Impact Assessment screening tool has been carried out and considers the impact in more detail. Combined with work to develop the Ending Violence Against Women and Girls Strategy 2018-2022 equality impact has been explored in some depth and therefore a full EIA has not been completed. However, tender applicants will need to evidence the impact of their bid on all protected characteristics, their understanding of intersectionality, and how they plan to monitor and review the impact of service delivery on equality.

Prevalence data shows high levels of residents living in proximity to domestic violence and sexual violence, whether as victims, as perpetrators, as children and family members or as neighbours and colleagues. This service will increase the ability of residents to better identify and respond to domestic and sexual violence, and to feel empowered to challenge violence and abuse. Tackling the normalisation of abuse will help to alleviate the demand on statutory services and on health services.

Domestic violence advocacy services can provide a voice or facilitate involvement for those from these vulnerable client groups who otherwise may have difficulty engaging in the care and support process. Floating support services can help residents to stay in their homes when it is safe and appropriate to do so and can assist victims and their families to manage their housing, develop independent living skills and avoid the need for crisis intervention.

9.4 **Safeguarding Adults and Children -** The provider must have in place the necessary Safeguarding protocols, in line with Council Policy and must demonstrate a good working knowledge of the Working Together to Safeguard Children 2018 document and the 6 principles of adult safeguarding.

9.5 **Health Issues -** The support of specialist domestic and sexual violence services can help improve the effectiveness of treatment and, in some cases, help early intervention or prevent the need for treatment and so ensuring the best use of resources.

The proposal is in line with the outcomes and priorities of the joint Health and Wellbeing Strategy. The award of the contract should further enhance the quality of and access to domestic and sexual violence services in the borough. The proposal will have a positive effect on our local community.

9.6 **Crime and Disorder Issues –** VAWG (violence against women and girls) remains a priority within the Community Safety Partnership Plan with four key areas being a focus:

- Support Survivors
- Educate and Communicate
- Challenge Abusive Behaviours
- Include Lived Experience

This tender will include these elements within the tender specification and will build on the areas of the plan that set out aspirations for improvement, including a move to a trauma-informed and gender informed approach, working more closely in the community and building in survivor voice through all elements of service delivery.

In addition, the delivery partner will be expected to support the Trauma Informed Health Intervention Model developed by the Community Safety Partnership, including attending a steering group which will set out referral pathways throughout the model.

A shared outcome for Community Safety Partnership and the Health and Wellbeing Board is to adopt a stronger focus on the impact of adverse childhood experience sand effects of trauma on children and young people. Reshaping our domestic and sexual violence services to be trauma-informed and therapeutic in approach directly supports this objective.

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

List of appendices: None

CABINET

19 March 2019

Title: Commercial Company Business Plans	
Report of the Cabinet Member for Finance, Growth and Investment	
Open Report with Exempt Appendices (relevant legislation: paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972)	**For Decision**
Wards Affected: All	**Key Decision:** Yes
Report Author: Hilary Morris, Commercial Lead	**Contact Details:** Tel: 020 8227 3017 E-mail: hilary.morris@lbbd.gov.uk
Accountable Strategic Leadership Director: Claire Symonds, Chief Operating Officer	

Summary

This report seeks Cabinet approval of the Business Plan for the Barking and Dagenham Trading Partnership (BDTP), in line with the requirements of the Shareholder Agreement, as well as endorsement of the Business Plan for the Barking and Dagenham School Improvement Partnership (BDSIP) in line with the requirements of the Membership Agreement. These Business Plans have been scrutinised by the Shareholder Panel, the advisory body created to monitor and to report to Cabinet on the performance of Companies that the Council has a shareholding interest in.

The creation of these companies was an integral part of Barking and Dagenham's New Kind of Council transformation programme. Launched in 2016, this programme has seen a radical re-shaping of services of which commercialisation and income generation via the creation of new independent commercial companies was a key strand. These companies have been designed to facilitate a sustainable financial position for the Council as well as improve service delivery and outcomes for the residents of the Borough.

The companies commenced trading during 2017 and 2018 and the Business Plans for BDTP and BDSIP are the first substantive Business Plans that reflect the new commercial expertise created in the Companies following the recruitment of commercial and sector specific independent Boards. These Business Plans highlight that performance during the first year/s of trading has been positive, that relationships both internal and external to the Council have been strengthened and that the Companies are making a positive impact to the Borough.

The positive impact can be seen in the improved trading positions as illustrated by;

- An improved financial position for all the Companies in 2018/19 including:
  - BDSIP now projecting to make a small surplus rather than a deficit which, as a non-profit company, will be re-invested in further enhance the school improvement offer to schools;

- BDTP forecasting to double its financial return to the Council in 2018/19 from £744k to £1.4m.

- An improvement in the delivery of services demonstrated by
  - BDTP continuing to honour the 2019/20 element of the National Pay Award for its mainly local workforce and committing to invest in delivering a minimum of 10 apprenticeships per annum from 2019 rising to 15 per annum from 2020/21;
  - BDSIP developing a schools' led approach to services with a direction of travel towards reducing the cost of school improvement services to B&D schools

Whilst the development of the Companies is in its early stages, these plans indicate that each of the Companies has made a successful start towards a positive and sustainable future.

The substantive Business Plans are contained within Appendices A and B, which are in the exempt section of the agenda as they contain commercially confidential information (relevant legislation: paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972) and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Recommendation(s)

The Cabinet is recommended to:

(i) Approve the Barking and Dagenham Trading Partnership Business Plan for 2019/20 – 2021/22, as set out at Appendix A to the report;

(ii) Agree to the Barking and Dagenham Trading Partnership entering into any procurement related agreement or commitment required to enable the delivery of the Business Plan subject to:
a). compliance with relevant procurement law;
b). compliance with its own scheme of delegation;
c). compliance with state aid rules; and
d). any other relevant approvals by the Council which may be relevant or required for the specific project.

(iii) Endorse the Barking and Dagenham School Improvement Partnership Business Plan 2019/20, as set out at Appendix B to the report.

Reason(s)

This proposal is in line with Recommendation 8 of the independent Growth Commission's report published in February 2016 and is aligned to the Council's 'Inclusive Growth' and 'A New Kind of Council' objectives.

1. Introduction and Background

1.1 In line with the Shareholder Agreement for BDTP and the Membership Agreement for BDSIP, these Business Plans have been produced for Cabinet approval and/or endorsement as outlined in the recommendations.

1.2 The Business Plans have been approved by the respective independent Boards of each Company and have scrutinised and revised following Shareholder Panel review.

1.3 Taking each Company in turn, this report highlights the key objectives to be delivered and the period by which the returns, either financial or social are expected with the detail behind the assumptions being shown in the exempt Appendices.

2. Barking and Dagenham Trading Partnership Business Plan (2019-2022)

2.1 In line with the Shareholder Agreement the Company is required to produce a 3-year Business Plan for Shareholder approval. The Business Plan set out at Appendix A presents the first substantive Business Plan for BDTP and therefore reflects the commercial expertise that has been created in the Company as well as the aspirations of the new Board for the Company's development.

2.2 The Business Plan describes the key activities and proposed strategy for development of the Company and its subsidiaries over the next three years and outlines a commitment to continue to be a socially responsible and valued employer in the Borough, demonstrated for instance in its commitment to honour the 19/20 element of the 2018 National Pay Award in full. This paper requests approval for the activities described in the plan but recognises that some activities, such as proposals to withdrawal from support services earlier than allowed in the Support Services SLA will require subsequent approval from officers, subject to approving a detailed business case in line with the requirements outlined in those contracts.

2.3 A like for like comparison of the anticipated return in this Business Plan against the forecasted return agreed at the Company launch indicates the company expects to increase the return to the Council by just under £2m to £5.748m over the years 2018-2022. This financial success comes on the back of a good first year of trading. Quarterly reports suggest that the Company has exceeded expectations and has delivered qualitative improvements to the core business performance demonstrated in the number of appointments kept on time at 99%, the number of repairs completed right first time at 97% and overall satisfaction with repairs sitting at 97.5%. This improvement has been pivotal in the Company securing a greater quantity of work such as the improvement works delivered to London Road car park which along with the more commercial management practises has resulted in improved financial performance.

2.4 Another major change for BDTP is the acquisition of LondonEast UK which completed in January 19. BDTP are now working with the Council and Be First on developing a long-term strategy for the site and which will be further articulated in the next rolling Business Plan due in March 2020.

2.5 Moving into 20/21 BDTP are forecasting to increase their revenue by nearly a third through securing additional work from external parties. This is a highly ambitious strategy in only the second full year of the Company's trading, but business plan illustrates that the Company has included investment in the current fleet, its own labour, management resource, sub-contractors and payroll to cover within its forecast for delivering this additional work and employees.

2.6 BDTP set out an intention to invest in delivering a social dividend to the borough including the provision of a set number of apprentices including 10 in 2019/20 increasing to 15 in 20/21. BDTP are also looking to develop a ‘leaving schools’ programme and a skills development programme in collaboration with schools to deliver on this objective although the actual detailed delivery plan has not yet been developed.

3. Barking and Dagenham School Improvement Partnership (BDSIP) Business Plan 2019-2022)

3.1 BDSIP is a schools’ led Company - the Council is a minority (19%) shareholder with the remaining 81% of the shares being held within the Barking and Dagenham family of Schools. BDSIP is a not-for profit Company with no financial targets to meet for the Council however, as a shareholder the Council has an interest in the company’s financial sustainability and its long-term strategy. On an annual basis the Council will need to consider how to exercise its voting rights at the Company’s Annual General Meeting including whether to endorse the Company Business Plan.

3.2 The Business Plan (Appendix B) demonstrates that the Company has had a positive first year and highlights successes in business development initiatives that have culminated in 93% of schools in the borough choosing to be members of the company. BDSIP provides services to every school in the borough and, in a recent ‘temperature check survey’ of headteachers views, 50% felt services had improved since BDSIP launched, 39% felt they had remained consistent and 11% felt quality had dropped. BDSIP forecasts that overall income for 2018/19 is c £40k higher than the original plan forecast.

3.3 The Business Plan outlines that BDSIP has already launched a new GDPR support service which 24 schools have accessed as was as well as issuing a revised service offer for its range of school improvement services. This new service offer has been tailored to address feedback raised by Headteachers so that it better meets their needs.

3.4 The business plan addresses how BDSIP is responding to the evolving education landscape including supporting the shift in focus for school improvement from helping schools achieve an Ofsted rating of ‘good’ to supporting the development of outstanding schools

3.5 BDSIP services are still purchased from schools on an annual basis so even though the forecasts are positive the actual range of services purchased is yet to be determined which will continue to be an area of risk to BDSIP in terms of resourcing planning and forecasting revenue.

4. Consultation

4.1 The Business Plans have undergone the following consultations

- Approved by the BDTP Board on 12 December 2018;
- Approval by the BDSIP Board expected March 2019;
- Endorsed (subject to agreed revisions) by Corporate Strategy Group on 17 January 2019;
- Endorsed (subject to agreed revisions) by the Shareholder Panel on 4 February

2019;
- Final endorsement by Corporate Strategy Group on 21 February 2019.

5. **Financial Implications**

Implications completed by: David Dickinson, Investment Fund Manager

5.1 The Council approved Budget 2019/20 includes assumptions of net cash returns from BDTP of £1.4m in 2019/20 and £2.2m (indicative position) in 2020/21. Encouragingly, this Business Plan offers the council greater returns and using the base case, these are planned to be £1.6m and 2.9m for 2019/20 and 2020/21 respectively. The current trading performance indicates the strength of the council's commissioning strategy with a focus on the flexibility of private sector delivery coupled with public sector ethos, helping to ensure financial support for key council services.

5.2 There are no income generation targets for BDSIP in the Council's MTFS. Whilst the Council has an interest in overall viability for services to schools it does not obtain a financial gain from its operation and any profits will be reinvested to improve Education outcomes. The main challenge for the Partnership will be ensuring continuing sustainability over the next few years as Education Funding changes are likely to mean reduced direct funding from DSG and a greater emphasis on trading with schools.

5.3 The Cabinet should be advised that there are always financial risks for new companies especially in relation to cash flow and liquidity. For this reason, a working capital loan facility on commercial terms has been provided for both companies (as approved in the February cabinet last year.)

6. **Legal Implications**

Implications completed by: Suzan Yildiz, Deputy Head of Legal Services (Commercial)

6.1 Cabinet is requested to approve Business Plans for two companies in which the Council has a shareholding or other interest, namely the Barking and Dagenham Trading Partnership (BDTP) and the Barking and Dagenham School Improvement Partnership (BDSIP). BDTP is a trading business in which the Council is a 100% shareholder and the relationships between the Council and the BDTP is regulated through the shareholder agreement. Shareholder agreements provide provisions regarding accountability to the Shareholder and form part of both the governance of the companies and contractual documents setting out the course of business, accounting for dividends, course of business of the company and activities over which only the shareholder has control. The Council can via its shareholder controls fully set the direction of these companies and monitor the performance of the companies. BDSIP is a not-for-profit company limited by guarantee in which the Council along with the group of Barking schools has a membership. The Council is a minority member with 19% of control. Therefore, the Cabinet does not have final approval over the BDSIP Business Plan and is asked to indicate its endorsement of the plan and agree for the Council's Non-Exec Directors to vote for its approval at the BDSIP Annual General Meeting.

Relevant Statutory Powers

6.2 The Council has a number of relevant powers regarding its establishment of trading companies, borrowing and investment activities. Section 1 of the Localism Act 2011, the general power of competence ("GPC") empowers local authorities to do anything that an individual can lawfully do provided that the activity is not expressly prohibited by other legislation. Activities authorised by the GPC can include investment, trading or charging decisions which may be undertaken through commercial (corporate) vehicles with the primary aim of benefiting the authority, its financial management, its area or its local communities. The power is wide and provided that the specific activity is not expressly restricted or proscribed by other legislative provisions, it will be within the parameters of the GPC power.

6.3 Section 4 of the Localism Act 2011 adds a proviso that if the GPC power is exercised for an activity which may be deemed 'for a commercial purpose' that is more than incidental to other functions or purposes of the Council, such activity must do so through a company. Therefore, there may be circumstances where commercial activity carried out by the Council's companies may necessitate that a company limited by shares is utilised and may require further approvals by Cabinet whether the projects have been identified in the proposed Business Plans or not.

6.4 Section 12 of the Local Government Act 2003 ("Power to Invest") enables a local authority to invest for any purpose relevant to its functions under any enactment, or for the purposes of the prudent management of its financial affairs. Consequently, borrowing to invest primarily for profit only would not be deemed directly relevant to fulfilling the authority's functions and will not, therefore, be authorised under this power. However, investment in development, land or property with a view to promoting regeneration will fall within the power to invest.

6.5 Section 1 of the Local Government Act 2003 ("Power to Borrow") provides local authorities with the power to borrow for any purpose relevant to their functions under any enactment or for the purpose of the prudent management of its financial affairs. The Power to Borrow has similar constraints to the investment power under the 2003 Act. Borrowing primarily to achieve a return is unlikely to be deemed connected to the functions of the Council or to be prudent financial management. Caution should be exercised in making decisions to ensure that any investments or loans financed with borrowing further the functions of the Council and are consistent with the prudent management of the Council's financial affairs and associated prudential guidance. In instances, where there may be commercial reasons for borrowing or investment further scrutiny and approval by Cabinet will be necessary as to whether the proposed activity is within the powers to invest and borrow, the CIPFA Prudential Code and relevant statutory guidance will be necessary (among other matters).

Other Legal and Commercial Considerations

6.6 The Council's fiduciary duties can be summarised as the Council acting as a trustee in respect of taxes collected and public sector income on behalf of its rate and tax payers. The Council in effect holds money but does not own it; it spends money on behalf of its business rates and council tax payers.

6.7 In making the decision concerning the business plans, Cabinet should give due consideration to the risks and benefits of approving the recommendations. In practice Cabinet will wish to consider whether a prudent investor, shareholder or borrower would undertake the activity or risks; whether the Council will achieve an appropriate return for the risk it is taking, and that the risks and potential costs involved in approving the planned business activity have been appropriately mitigated in the event of any of the companies (or their subsidiaries) becoming insolvent and/or defaulting on any outstanding loan(s). It should be borne in mind that in instances where loan book activity references in the report and business plans is funded by PWLB borrowing, a default by the borrower/s (whether the Council's entities or other third parties) could leave the Council exposed to repaying loans and interest notwithstanding default by its borrowers. The Chief Operating Officer should also consider these risks in approving the terms of any relevant legal agreements.

Funding and Borrowing

6.8. Section 15 of the Local Government Act 2003 requires that the Council have regard to statutory guidance in relation to exercising its borrowing and investment powers. The relevant Statutory Guidance on Local Government Investments (3rd Edition, issued on 1 April 2018). In accordance with the Guidance (paragraphs 33 and 34), A local authority may choose to make loans to local enterprises, local charities, wholly owned companies and joint ventures as part of a wider strategy for local economic growth even though those loans may not all be seen as prudent if adopting a narrow definition of prioritising security and liquidity provided that the overall Investment Strategy demonstrates that:

(i). The total financial exposure to such loans is proportionate;
(ii). An expected 'credit loss model' has been adopted to measure the credit risk of the overall loan portfolio;
(iii). Appropriate credit controls are in place to recover overdue re-payments; and
(iv). The Council has formally agreed the total level of loans by type and the total loan book is within self-assessed limits.

It is noted that matters associated with credit / risk management and borrowing / lending activity are expected to be addressed in the next iteration of the Council's Investment Strategy.

6.9 Appraisal and consideration will need to be given as to the mechanisms and entities through which specific developments (whether referenced in the Business Plans or not) are to be delivered in future, whether directly by the Council, BDTP or through joint ventures. Individual schemes and projects will have potential implications under the Public Contracts Regulations 2015 and state aid rules, which will need to be complied with by the Council or the company undertaking such activity for the Council. The Council should put in place appropriate assurance protocols for checks and balances to ensure that its companies are compliant.

State Aid Implications

6.10 As a public body, the Council cannot provide state resources or other forms of support on a selective basis to any organisations or body in a manner that could potentially distort competition and trade in the European Union. This principle is binding in law on the Council and is applicable for all three companies featured in this report. This means that the Business Plans must be compliant in design and execution. The Council is aware of its duty not to breach state aid law and in this regard, will continue to monitor and seek reassurance from the companies that their activities and support from the Council (including its terms, finance rate and security offered) satisfies the Market Economy Investor Principle and any loans and facilities are state aid compliant. Legal due diligence will be carried out to confirm this to the Chief Operating Officer before entering into any agreements or permitting draw-downs.

Governance Implications

6.11 The approval of the BDTP business plan is reserved to the Council as shareholder under a shareholder agreement. This is an executive function exercised by the Cabinet on behalf of the Council as shareholder.

6.12 Under Part 3, Chapter 1, paragraph 1.2 of the Council's Constitution, the Cabinet can in turn delegate its functions to an officer or authorise the officer to take investment decisions subject to established parameters, such as the need to consult other officers or Cabinet Members prior to making a final decision. It is noted that the Chief Operating Officer already has such delegations under the Constitution or expressly given by Cabinet on specific plans or schemes.

7. Other Implications

7.1 **Support Services** - the Business Plans outline that the Companies are considering their options in relation to buying Council support services at the end of the two-year exclusivity period in April 2020 as well in some cases a clear intention to withdraw from these. The companies are required to give six months' notice of this intention prior to the end of the exclusivity period but discussions will be ongoing throughout the interim period to consider and mitigate any impact this might have including any TUPE or financial implications.

7.2 **Contractual Issues** - Development Business Plan's is a contractual commitment for all of the Companies and is designed to set the framework by which the strategic direction of each Company is considered and approved or endorsed by the Council as either a major or minor Shareholder

7.3 **Staffing Issues** – Some elements of the plans may require the Companies to employ a greater number of staff and in some areas TUPE obligations may arise such as with regard to the withdrawal of support services. These activities will need to be planned accordingly.

7.4 **Corporate Policy and Customer Impact** – The outcomes noted within each of the Business Plans are expected to have a positive impact on residents, either by supporting the Council's aim to become self-sustainable as well as improving service outcomes and educational attainment for residents and children.

7.5 **Health Issues** - The proposed Business Plans will have a positive impact on the local community, particularly in relation to the provision of more local accommodation and more local employment,

7.6 **Property / Asset Issues –** The intention of the BDTP to re-located from their current base at Pondfield House to the LEUK site in Dagenham East will need to be planned in collaboration with MyPlace as the asset manager of the Pondfield Site. There may be financial or staffing issues that will need to be considered and which will be discussed during the planning process.

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

List of appendices:

- Appendix A: Barking and Dagenham Trading Partnership Business Plan 2019-2022 (exempt document)
- Appendix B: Barking and Dagenham School Improvement Partnership Business Plan 2019/20 (exempt document)

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CABINET

19 March 2019

Title: B&D Energy Ltd Business Plan 2019/20	
Report of the Cabinet Member for Finance, Performance and Core Services and the Cabinet Member for Regeneration and Social Housing	
Open report with Exempt Appendix (relevant legislation: paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972)	**For Decision**
Wards Affected: All	**Key Decision:** Yes
Report Author: Simon Woodward, Technical Energy Manager	**Contact Details:** E-mail: simon.woodward@lbbd.gov.uk
Accountable Strategic Leadership Director: Graeme Cooke, Director of Inclusive Growth	

Summary

The report seeks approval for the 2019/20 Business Plan for the Council's Energy Services Company (ESCo), B&D Energy Limited.

Building on progress since the approval of B&D Energy's original business plan in 2016, the core proposition in this updated plan is the creation of what the GLA have designated as a 'Strategically Significant District Energy Network' providing heat to nearly 8,000 homes and around 60,000m2 of commercial floor area in Barking Town Centre. This will create a new low carbon energy network in Barking comparable with those already developed in major cities across the UK such as Birmingham, Southampton, Sheffield and Nottingham. The 2019/20 Business Plan is at Appendix 1 in the exempt section of the agenda as it contains commercially confidential information relating to the business activities of B&D Energy Limited, which is exempt under paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972 (as amended), and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Connecting all of these developments onto one local energy network offers a unique opportunity to decarbonise Barking Town Centre, by transitioning over time from the initial low carbon heat sources to large scale and fully renewable energy sources. This is fully aligned with the GLA's target of a Zero Carbon London by 2050. The Scheme will also deliver fairly priced heat to residential customers, underpinned by market leading Guaranteed Standards of Service from B&D Energy Limited.

The business plan requires a total of £31.5m to deliver made up of upfront investment from the council, via on lending of £27.2m (including £1.7m already approved in the 2016 Business Plan) to deliver a return of £6.9m by 2028, dependent upon a £5m capital grant from the Department of Business Energy and Industrial Strategy (BEIS) Heat Network Investment Project (HNIP). Delivery of the projected IRR (Internal Rate of Return, which is a measure of the return on the investment made by the Council in the project) of 5.84% is dependent upon obtaining the HNIP grant.

If adopted, and with the benefit of grant, this Scheme will generate a long-term financial return for the Council. If not progressed, the opportunity could be lost to a multitude of other national energy suppliers and service companies given the planning requirement for all new developments to provide a heat network.

To enable delivery of the necessary infrastructure and connections, the report also seeks approval for the Council to enter into the necessary long-term leases (20 years or longer) with B&D Energy Limited for the land on which the new Energy Centre and long leases for the utilisation of the energy centers and substations located at the Abbey and Becontree Leisure Centres. B&D Energy Limited is already operating equipment at these locations and supplying energy to the leisure centers under a Connection & Supply Agreement with the Leisure Centre operator in line with the Business Plan 2016. The existing Commercial Supply Agreement will be updated to reflect the 50m pool and associated infrastructure at Becontree Leisure Centre.

Recommendation(s)

The Cabinet is recommended to:

(i) Approve the B&D Energy Limited Business Plan for 2019/20, as set out at Appendix 1 to the report;

(ii) Approve the creation of a Strategically Significant District Energy Network across Barking Town Centre (“the Scheme”), subject to the receipt of grant funding from the Department of Business Energy and Industrial Strategy (BEIS) Heat Network Investment Project (HNIP) and as generally set out in the Business Plan;

(iii) Agree the submission of an application to the BEIS for HNIP grant funding in the sum of £5m;

(iv) Agree, subject to the receipt of HNIP grant, to the Council borrowing £27.2m (including £1.7m approved via the 2016 Business Plan) and on-lend to B&D Energy on state aid compliant terms to fund the balance of the project capital costs of the Scheme;

(v) Delegate authority to the Director of Inclusive Growth, in consultation with the Finance Director, the Director of Law and Governance, the Cabinet Member for Finance, Performance and Core Services and the Cabinet Member for Regeneration and Social Housing, to negotiate terms and agree the corporate loan(s), shareholder agreement, and all associated contract documents in a manner compliant with state aid rules to fully implement and effect the Scheme and the Business Plan;

(vi) Delegate authority to the Director of Inclusive Growth, in consultation with the Finance Director, the Director of Law and Governance, the Cabinet Member for Finance, Performance and Core Services and the Cabinet Member for Regeneration and Social Housing, to negotiate the final terms and enter into long leases (for 20 years or longer) in respect of the new Energy Centre and energy centre/substations at Abbey and Becontree Leisure Centres, subject to a valuation pursuant to the requirements as to disposals in section 123 of the Local Government Act 1972 and state aid principles being complied with; and

(vii) Delegate authority to the Director of Law and Governance to execute all of the legal agreements, contracts, loans, shareholder agreement, long leases in respect of the Energy Centre and Becontree and Abbey Leisure Centres and any other documents required for the delivery of the Scheme or the Business Plan on behalf of the Council or B&D Energy Limited as may be applicable.
Reason(s) To assist the Council in achieving its corporate priorities that will support the Council's economic development and low carbon and renewable energy objectives.

1. Introduction and Background

1.1 B&D Energy's original business plan, which was approved by Cabinet in June 2016, identified a number of possible work streams for B&D Energy to develop. These were:

- District and communal heating (based on the seven district energy opportunity areas that were identified at that time)
- Solar PV
- Wind and water turbines
- Energy Performance Contracting (energy savings funded investment in non-residential properties)

1.2 Having delivered the objectives of the Business Plan 2016, the Becontree District Heating Network is already operational, supplying energy to the existing leisure centre, the recently built 50m swimming pool and the scheme's first 170 residential units. This is funded through a £1.075m HNIP grand fund, with the balance of circa £2m being part funded from the £3m capital approved in 2016.

1.3 Since that time fiscal support for technologies such as PV and Wind have been dramatically reduced by the Government, making the ability to generate financially viable projects much harder. In this Business Plan we have therefore narrowed our current focus to those options where B&D Energy can make the most significant and rapid impact on delivering the Council's strategic energy infrastructure vision in a financially viable manner, which are:

- The development of District Energy Networks (specifically in Barking Town Centre)
- Energy Performance Contracting

1.4 We plan to progress Energy Performance Contracting towards the end of this coming year once we have progressed the development of our key strategic project of a Barking Town Centre wide low carbon heat network (the Scheme) as set out in the Business Plan. We will keep monitoring the viability of those other technologies such as PV and Wind and if we can find future projects that are viable, we still aim to progress them. In the meantime, £1.5m has been set aside within the HRA budget for 2019/20 to fund energy efficiency and energy generation opportunities as part of the stock investment programme (including solar PV).

1.5 Therefore, the primary focus of this Business Plan is to set out and seek approval for the creation of a Strategically Significant heat network to supply a large number of developments with low carbon heat across Barking Town Centre (the Scheme). The Scheme will be the primary goal of B&D Energy over this coming year as the opportunity for a local authority to lead on decarbonisation project in its town centre, which could also generate return on investment, does not exist anywhere else in London.

2. The Proposed Scheme

2.1 The core proposition is to construct a district energy scheme which will initially connect nearly 8,000 homes and around 60,000m2 of commercial floor area onto one low carbon district energy network in Barking Town Centre.

2.2 We will achieve this by:

- installing approximately 2 km of buried district heating pipework around the Town Centre, as we have recently installed at Becontree
- building a new strategic scale energy centre in the North West of the Town Centre to house our main source of low carbon generation (gas fired CHP units)
- linking this new energy centre via the heat network to the existing low carbon energy centre on the Gascoigne East development

2.3 Together this energy generation plant and heat network will allow B&D Energy to deliver supplies of low carbon heat to all connected homes and businesses across Barking Town Centre.

2.4 Such a scheme has been considered many times over the last 10 years in various studies, including a study commissioned by the Council. However, the timing of the development opportunities that exist today and the structures that are in place with the Council's own energy company already formed and providing heat supplies in Barking Town Centre Gascoigne East estate means that this vision can finally be realised.

2.5 This Scheme has also been identified by the GLA as being Strategically Significant, reflecting the scale of the energy infrastructure.

2.6 This Scheme will create a new low carbon energy network in Barking comparable with those already developed in major cities across the UK such as Birmingham, Southampton, Sheffield and Nottingham.

3. The Reasons for Creating the Scheme

3.1 A number of strong reasons support the business case for B&D Energy creating this Scheme as set out in the Business Plan, but the key ones are:

3.1.1 Connecting all feasible developments into one local energy network offers a unique opportunity to deliver the wholesale decarbonisation of Barking Town Centre, by transitioning over time from the initial low carbon heat sources to large scale renewable energy sources. This is fully aligned with the GLA's target of a Zero Carbon London by 2050.

3.1.2 The Scheme delivers fairly priced heat to residents across Barking Town Centre underpinned by market leading Guaranteed Standards of Service from B&D Energy Limited

3.1.3 Through B&D Energy Limited the Scheme generates an income and financial return for the Council which if not progressed, would be lost to a multitude of other national energy suppliers and service companies given the requirement for all new developments to provide a heat network that meets planning requirements.

4. Options Appraisal - Impact if Scheme is not Progressed

4.1 If the Scheme is not progressed then as a result of planning obligations each of the new build developments that B&D Energy is proposing to connect will have to install their own on-site low carbon heat generation plant feeding their individual on site heat network. This would be a huge missed opportunity to decarbonise the heat source over time, to provide a high-quality energy services offer to residents, and to generate a long-term return to the Council.

4.2 Recent changes in Energy Policy by the GLA means that from 1st January 2019 these local on-site energy heat generation solutions would have to meet future carbon targets. This would drive developers toward energy systems and technologies which are not tried and tested and will have an uncertain impact on development costs and heat charges to residents. This would clearly impact BeFirst developments. Due to the Strategically Significant nature of the proposed Scheme B&D Energy has obtained dispensation from the GLA’s planning team to initially progress with tried and tested and viable gas fired CHP technology and over time move to these lower carbon renewable sources once they are fully investigated and proven viable.

4.3 The Government has accepted the findings of a recent investigation by the Competition and Market Authority that the heat network sector should be regulated by OFGEM. B&D Energy with its established systems and procedures and market knowledge is well placed to meet this impending regulation. If this Scheme did not exist, then each developer would have to understand and assess the impact and meet the obligations as set out in this impending regulation. This will clearly impact BeFirst and their developments.

4.4 Without B&D Energy the services standards and pricing of heat across all the developments will not be set using B&D energy’s carefully thought through policies and structure and will be left to each developer (only subject to future regulation).

5. Company structure and governance

5.1 The business plan sets out proposed changes to the management and operational structure of the company, to enable the plan to be delivered, as well as steps to strengthen and clarify the governance and accountability arrangements underpinning the relationship between the Council and B&D Energy.

5.2 These arrangements will be reviewed upon adoption of the business plan, based around the following key changes:

- Replacing the Chief Operating Officer with an alternative senior officer as Company Director, to avoid any conflicts of interest. As the company continues to develop, consideration will be given to recruiting additional non-executive directors, potentially including individuals external to the council.

- Putting in place a Shareholder Agreement between the company and the council, clarifying the legal relationship between LBBD and B&D Energy. This would be based on similar agreements between the Council and its other wholly owned subsidiaries; enabling the shareholder to hold the company to account for key financial and business plan performance.

- Agreeing a commissioning mandate between LBBD and B&D Energy, establishing the outcomes, strategic developments and performance expectations for the company. This would locate B&D Energy within the 'family' of key entities commissioned by LBBD's core Inclusive Growth function to deliver the council's LBBD's long term, strategic ambitions (as embodied in the Borough Manifesto). Accountability for key performance outcomes would run through this commissioning process.

5.3 This review and resulting changes will be put in place over the coming 12 months.

6. Key Financial Issues

6.1 Developing such a network requires significant capital investment of £31.5m. In addition, £1.7m of working capital agreed as part of the 2016 Business Plan is also required to support the delivery of the Scheme by B&D Energy and will be subject to a loan agreement on commercial terms between the Company and the Council.

6.2 A detailed analysis of the investment opportunity for BTC demonstrates that it can deliver the Council's target IRR (Internal Rate of Return which is a measure of the return on the investment made by the Council in the project) of 5.84% if the project is supported by a BEIS HNIP grant of £5m.

6.3 The Business Plan analyses the potential for receiving such a grant and finds that this is a realistic opportunity with a high chance of success, based on the Council's previous experience of obtaining a £1M HNIP grant for the Becontree scheme.

6.4 The balance of funding of £27.2m will be met by the Council subject only to the award of this HNIP Grant.

7. Consultation

7.1 The draft Business Plan and report were considered and endorsed by the Corporate Strategy Group at its meeting on 21 February 2019.

8. Financial Implications

Implications completed by: David Dickinson, Investment Fund Manager

8.1 Section 10 of the Business Plan contains an outline of the cashflows, funding requirements, Internal Rate of Return and underlying assumptions. These have been checked and agreed by WSP Finance and provide a prudent assessment of the ESCO proposal. Although the proposals are prudent, there could still be issues around each energy Centre, both during the construction and the operational phase that could adversely impact the forecast returns.

8.2 Prior to proceeding with the BTC energy scheme there are two main conditions that need to be met, including:

i. obtaining at least £5m of grant to enable the scheme to provide a return in excess of the borrowing cost hurdle rate of 4.5%.
ii. obtain certainty over the number of secondary district heating networks that will connect to the BTC Energy Centre to ensure that there is sufficient income generated to fund the development costs.

8.3 Failure to achieve either of these will prevent the BTC proposal from progressing, although the Becontree and Gascoigne Energy Centres, which are nearing completion, will continue under the funding agreed at the June 2016 Cabinet.

8.4 A key consideration within the business plan is around the engagement of Be First, who manage the development of a number of the sites that are likely to connect to the various energy centres. It is essential that Be First are involved and agree to the development time frames and the costs for the schemes where they are the development manager. It is also essential that the energy centre does not delay any of the Be First schemes as delays caused by the energy centre requirement will then impact the ESCO, Be First and the Council's financial returns.

8.5 Reputational risk is one of the main risks associated with energy centres and Council owned energy centres, both in terms of bad publicity reflecting badly on the Council, but also in compromising the ability to attract new schemes to connect to the energy centres. The energy centres do provide a very attractive option for new developments within Barking Town Centre to connect to but a poor reputation for maintenance, billing, the quality of the build and the contract negotiations will impact the number of schemes that agree to connect. It is essential that the ESCO is sufficiently resourced and managed, both directly and through its suppliers and contractors, to ensure that its reputation is maintained and is attractive to developers.

8.6 Pricing, both as far as charging customers and purchasing gas, is another key risk and these risks and how they will be mitigated are covered in detail in section 8.2 of the Business Plan. Members are asked to be aware of how the pricing will be calculated for residents.

8.7 The internal rate of return for Becontree and BTC is a key financial indicator, with both returning over 5.5% net of grant. This return will both provide a positive cashflow after interest costs at 4.5% are paid but will also repay the £27.2m loan over a 20-year period after the initial 7-year development period is completed. Currently the cost of borrowing to the Council is below 3% and therefore, in addition to the net profit generated there will also be a funding margin that will be paid to the Council. This funding margin will provide additional protection to the Council in the event that the income from the Esco is not sufficient to cover its costs over a period.

8.8 A final consideration is that, generally this type of company is viewed as secure in terms of cash-flow generation once it is fully operational. When sufficient operational stability has been achieved such companies have a relatively high enterprise value and, depending on market conditions at the time, could be sold to third party investors for a level of enterprise value that would be acceptable to the private equity industry.

8.9 The cashflow in 10.1 of the Business Plan identifies the first year that operational profits, paid as a dividend to the Council, will be generated is in 2021, with a return to the Council of £372k. Losses in 2019 of £317k and losses of £81k in 2020 will be covered by the working capital loan. Taking into account these losses, the Esco is forecast to provide an accumulative profit in 2022 of £180k.

8.10 Annual operational profits increase to £1.8m in 2025 but this decreases to a small profit of £149k in 2028 as loan repayment start. The cashflow forecast then does show a steady growth in profits, net of debt and interest repayments from 2029 onwards.

9. Legal Implications

Implications completed by: Suzan Yildiz, Deputy Head of Legal Services (Commercial)

Legal Powers / Provisions

9.1 The report proposes the approval of a new Business Plan 2019/20, which includes development of new infrastructure, namely a District Energy Network (the Scheme) with the potential to decarbonise the provision of heat in the Barking Town Centre. The delivery of the Business Plan and the Scheme is intended to be funded primarily through borrowing and on-lending by the Council, and part funded through HNIP funding which is yet to be obtained. The financial implications note that a minimum of £5 million of grant is required to ensure that the Scheme remains viable after factoring in debt financing. As such, if B&D Energy are not successful in obtaining at least £5 million of debt funding, the decision to borrow to build the facility should be reconsidered and taken back to Cabinet.

9.2 B&D Energy already exists and is operational as a company (of which the Council is a 100% shareholder), having delivered and connected its energy centre to the Becontree and Gascoigne development schemes. The general power of competence under Section 1 of the Localism Act 2011 (GPC) enables the Council to operate an energy company which produces and sells energy. In exercising the GPC power, the Council is subject to its general public law duties, such as exercising the power for a proper purpose and complying with its fiduciary duties to rate payers and residents, i.e. the Council must act prudently in managing and expending public funds (including borrowing).

9.3 Section 11(1)(d) of the Local Government (Miscellaneous Provisions) Act 1976 also provides a discretionary power which permits local authorities to produce and sell electricity. A discretionary power permits the Council to provide services which it is not statutorily required to. Except in prescribed cases, section 11(3) specifies that a local authority must not sell electricity which is produced 'otherwise than in association with heat'. The Scheme only proposes to provide decarbonised heat to local developments and properties, therefore, fits within this exception.

9.4 The sale of electricity is heavily regulated through the Sale of Electricity by Local Authorities (England and Wales) Regulations 2010 (the “2010 Regulations”), which were made under section 11(3) of the 1976 Act, and prescribe various circumstances. The 2010 Regulations confirm that local authorities are permitted to sell electricity (otherwise than in association with heat) which is produced from wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogas sources.

9.5 Section 4(1) of the Electricity Act 1989 (the Electricity Act) makes it a criminal offence for any person to generate, transmit, distribute or supply electricity and/or provide smart meter communication services without either a licence or an exemption to hold such a licence. The relevant licensing exemptions applicable to B&D Energy are the Electricity (Class Exemptions from the Requirement for a Licence) Order 2001 as amended by the Electricity (Class Exemptions from the Requirement for a Licence) (Amendment) Order 2005 (the "2001 Order"). It is understood from officers leading on B&D Energy that at the time of this report, other than the Gascoigne which is within the relevant exemptions, the Business Plan 2019/20 does not propose to transmit or supply electricity to other schemes.

9.6 Whilst the new Scheme does not propose to generate and supply electricity, it is noted that the extant B&D Energy company is already supplying energy to the Gascoigne and Becontree schemes. Therefore, in approving the Business Plan and before proceeding with borrowing to deliver the new Scheme, officers and decision makers must ensure that its operations will remain within the 2010 Regulations and the exemptions available particularly in relation to supplying both heat and energy to the Gascoigne and Becontree schemes (or any others) which are already being supplied with electricity through its private wire distribution network.

9.7 If the Council or B&D Energy fall outside the thresholds for generation, distribution and/or supply of electricity they could be in violation of the section 4(1) of the Electricity Act, which makes it a criminal offence to generate, distribute and/or supply electricity without a licence.

9.8 The Council should also consider that under certain circumstances, and in particular where a specific customer of B&D Energy requests a change of its electricity supplier, the Council will be required to open up its private wire distribution network to other third-party electricity suppliers and let them supply electricity to consumers on the Gascoigne estate. This was confirmed in the ruling of the European Court of Justice in 2008 in the Citiworks case. These third-party access requirements are now covered under the Electricity and Gas (Internal Markets) Regulations 2011. Decision makers and officers should also note the commercial risk with respect to the rules on setting maximum prices for distribution and supply of electricity.

9.9 **Heat and Hot Water Supply** - In December 2014, in response to the EU Energy Efficiency Directive, the Government introduced the “the Heat Network (Metering and Billing) Regulations 2014” to govern the generation and supply of hot water for space heating and domestic hot water. These regulations are already impacting on any existing schemes within the borough and do not present an onerous burden on B&D Energy.

9.10 **Procurement & State Aid Implications between Council & B&D Energy** - Any support the Council gives B&D Energy (such as use or supply of its property, assets, staff or services, must be provided at arms' length and on market normative terms/cost as if B&D Energy were any other arm's length private undertaking to ensure compliance with state aid rules. The Council cannot subsidise the Company, which must operate on a level playing field. The cost of support services (e.g. finance, legal and human resources) and any facilities which will be necessary during the Business Plan 2019/20 period should be contained within the proposed working capital loan envelope, which is also intended to capture past expenditure.

Expenditure

9.11 Officers must be confident that expenditure to date and projected costs during the Business Plan 2019/20 period e.g. staffing costs, procurement, support services, and external legal spend) will be contained within the working capital loan.

9.12 Currently loan arrangements are being put in place, to ensure that B&D Energy is not in a state aid environment.

Governance / Decision Making

9.13 The Articles of B&D Energy provide that quorum of two directors is needed, the company has a single member, in which case quorum is one). Presently, the ESCO has a sole director, being also the Council's Chief Operating Officer (which was a matter of convenience when the Company was set up). To avoid conflicts between the functions of COO and director of B&D Energy, the governance arrangements at section 5 of the report propose to appoint a new sole director of B&D Energy. The business plan identifies the appointment of key officers required for essential functions. This should be kept under review to ensure the efficacy of the business plan. To meet the operational / governance needs of B&D Energy as the company delivers the Energy Centre and grows its customer base, it may prove necessary to bring in non-executive directors with specialist expertise (e.g. energy, finance and procurement expertise).

9.14 A shareholder agreement for B&D Energy does not exist at present but is recommended to ensure the company operates at arm's length and any positive cashflows are accounted for to the Council as shareholder. A delegation to Inclusive Growth Director and Director of Law to approve a shareholder agreement is included to allow a suitable document to be drafted and negotiated post Cabinet approval. The Agreement would be broadly on similar terms to those negotiated for the present group of Council companies.

Grant of Leases

9.15 To facilitate the delivery of the requisite energy infrastructure, connections and supplies, Cabinet is requested to approve the grant of long leases (in excess of 20 years):

(i) in respect of the Energy Centre to be constructed and

(ii) to rationalise the operations of energy centers and substations located at the Abbey- and Becontree Leisure Centres, which are already operational pursuant to the 2016 Business Plan.

9.16 The terms for these leases have yet to be substantially agreed. It is recommended that approval of final terms be delegated to the Director of Inclusive Growth, in consultation with members

9.17 The Council's disposal powers are contained in section 123 of the Local Government Act 1972 (LGA 1972). Section 1 of the Localism Act 2011 can also be relied on.

9.18 Under Section 123 LGA 1972, the Council has the power to dispose of land in any manner that it wishes providing that the disposal is for the best consideration reasonably obtainable or there are ministerial consents, or the disposal furthers local well-being. The Council proposes to grant B&D Energy long leases (exceeding 20 years). In accordance with the Constitution, Part 4, Chapter 4 (Land Acquisition and Disposal Rules), Section 2.2 (Control by the Cabinet), the disposal of all property either long-lease (over 20 years) or by the sale of the freehold must be approved by the Cabinet.

9.19 Negotiation of the final lease terms is being delegated to the Director of Inclusive Growth subject to appropriate consultations with relevant members and directors. In agreeing the rent and final terms, the Director of Inclusive Growth must obtain a valuation opinion supporting the terms and should ensure that rents associated with the leases are factored into the operating costs of the Business Plan. A delegated report is expected to deal with those matters.

10. Other Implications

10.1 Risk Management

10.1.1 It is important to note that this business plan includes a number of assumptions, and whilst these are based on commercial industry norms, there is risk in the operation of any business that these assumptions are not matched in project delivery. To mitigate this, the following development period and operational factors need to be rigorously managed to ensure delivery of business plan assumptions. These are:

- Plant which is designed to be aligned with the assumptions in the model;

- That plant is commissioned and then operated to match or exceed these commercial assumptions. This will include a process of intense plant monitoring and continual feedback and improvement which will need to be built into the ESCOs operational, management and risk control systems;

- Where practical, delivery by in house teams is acceptable but where this is not appropriate then the utilisation of a framework of contractors procured to deliver a high-quality service delivery coupled with lowest cost, should be established.

10.1.2 Another key risk is that HNIP funding cannot be secured which is required to meet the IRR hurdle rate, i.e. the rate of return required to make this an investable project. Based on an assessment of the prequalification requirements of the HNIP program and the fact that B&D Energy already successfully received similar funding for its Becontree project under the HNIP pilot programme, this risk is minimised.

10.2 **Contractual Issues**

10.2.1 Build contracts exceeding the relevant procurement thresholds will be procured in line with public sector procurement rules.

10.2.2 Professional services will be procured using appropriate frameworks, where available.

10.2.3 The five-year Operation and Maintenance (O&M) contract is in the final stages of negotiation at the time of this report. It is being procured using the Competitive Procedure with Negotiation procurement procedure and in line with OJEU requirements.

10.3 **Staffing Issues -** Key members of staff are being procured directly by B&D Energy, with some support services, for example, finance, being bought from the Council.

10.4 **Property/Asset Issues -** Appropriate leases to be put in place where LBBD properties are leased to B&D Energy.

Public Background Papers used in Preparation of the Report: None

List of Appendices:
Appendix 1 - B&D Energy Business Plan 2019/20 (exempt document)

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

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CABINET

19 March 2019

Title: Institutional Funding Proposal – ApartHotel Investment	
Report of the Cabinet Member for Finance, Performance and Core Services	
Open Report with Exempt Appendices (relevant legislation: paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972 as amended)	**For Decision**
Wards Affected: None	**Key Decision:** Yes
Report Author: Hilary Morris, Commercial Lead	**Contact Details:** E-mail: hilary.morris@lbbd.gov.uk
Accountable Strategic Leadership Director: Claire Symonds, Chief Operating Officer	

Summary

This report sets out proposals for the Council to enter into an investment arrangement with an Institutional Investor and a specialist Aparthotel operator. The proposal would generate significant annual revenue for the Council but sums outlined in the proposed Heads of Terms are indicative only and will be finalised through the detailed due diligence and negotiation process.

A site for the new Aparthotel as well as planning permission has been secured and construction is underway. The new ApartHotel has been designed to meet the short-stay hotel (ApartHotel) market primarily from business visitors to the City of London and surrounding fringe areas. The current owner, an overseas investment fund, will continue to take all construction and development risk until Practical Completion which is due in November 2019 at which point the Council and would enter into the investment and lease arrangements.

The proposed transaction is a lease and leaseback arrangement between an Institutional Investor (long leaseholder), the Council (head lessee) and a specialist ApartHotel operator as tenant of the Council. This Council would retain a profit rent to reflect rental obligation required by the institutional investor and any index uplifts will be mirrored in the Aparthotel operators lease to ensure the profit rent margin increases at the same level. The Council will receive the freehold of the property at the end of the Headlease period which GVA have advised is currently valued at £94.6m

No rent is payable between the parties until the new hotel is constructed and the Aparthotel operator have entered their lease. Under this arrangement the Council would pay a guaranteed and indexed head rent to the funder for the term. Simultaneously the Council would receive a matching guaranteed and indexed rent from the Aparthotel operator for the term of the agreement. The rent payable by the Aparthotel Operator to the Council is higher than the rent payable to the Institutional Investor, providing a profit rent to compensate the Council for providing the rental guarantee. The Aparthotel operator assumes full operating, maintenance, insurance and occupancy risk for the term of the Aparthotel Operator lease.

Recommendation(s)
The Cabinet is recommended to: (i) Agree the draft Heads of Terms between the Council and the Institutional Investor as detailed in Appendix 1 to the report; (ii) Agree that the Council enter an Agreement to Lease with the Institutional Investor and the Aparthotel Operator on state aid compliant market terms; (iii) Agree that the Council enter a 50-year Head Lease with the Institutional Investor on state aid compliant market terms; (iv) Agree that the Council grant a 25-year sub-lease with an option to renew to a specialist Aparthotel operator; (v) Delegate authority to the Chief Operating Officer, in consultation with Director of Law and Governance and the Cabinet Member for Finance, Performance and Core Services, to negotiate final heads of terms, final commercial and lease terms and agree the contract and ancillary legal documents to fully implement and effect the proposals set out in the report; (vi) Authorise the Director of Law and Governance, or an authorised delegate on her behalf, to execute all the legal agreements, contracts and other documents on behalf of the Council; and (vii) Delegate authority to the Chief Operating Officer, in consultation with Director of Law and Governance, to incorporate a special purpose vehicle (whether a company or Limited Liability Partnership) if considered necessary and appropriate, such incorporation to include such shareholders or members' agreement as may be required.
Reason(s) The proposals in this report would help to deliver the objectives of the Investment and Acquisition Strategy community development and help to deliver regeneration in East London.

1. Introduction and Background

1.1 An opportunity has been presented to the Council under the Investment and Acquisition Strategy (IAS) to participate in an institutional funded Aparthotel investment. The proposals in this report would be held within the commercial property asset class of the IAS.

1.2 The development has been brought forward and financed by an overseas investment fund (the asset is held in a Special Purpose Vehicle) who are looking to sell the scheme to a long-term institutional investor once the building reaches Practical Completion in November 2019. The institutional investor would purchase the asset and would then enter into a HeadLease with the Council in return for annual profit rent. The Council will then simultaneously enter into an operational underlease granted to the Aparthotel operator in return for a fixed rent.

1.3 A key investment objective of the Institutional Investor in purchasing the asset is to create stable and low-risk long-term returns to pay future pension liabilities. Such investors commonly aim to reduce their income risk by seeking to insert an intermediary tenant (in this case the Council) to sit between themselves and the ultimate occupational tenant and who has a better credit rating than the occupational tenant. In return, the intermediary tenant receives a profit set at a level commensurate with the level of risk transferred.

1.4 The site sits in Aldgate and is very close to the City of London's financial district so is well placed to provide short and mid-term accommodation to support the banking/insurance industries. Overseas and out of London based Clients and Employees of the banks will be able to use the apartments at the weekends alongside holiday makers. Furthermore, the location provides for a very strong alternative use value in the form of offices, standard private rental sector residential and hotel use.

1.5 LaSalle Investments, one of the Largest Pensions Funds in the UK/US, have bought six ApartHotels in London in the last twelve months due to the diversification characteristics of this hotel segment. The proposed development has been built using standard construction methods to allow for future flexibility of conversion to alternative uses with minimal works e.g. other hotel formats, PRS, affordable housing, shared ownership/ private sale housing which provide options that could be pursued in the event of a default of the Aparthotel operator lease or at the expiry of the 25-year lease.

1.6 The key indicator used to determine the strength of the opportunity is the expected earnings of the hotel expressed by the expected operating EBITDA of the scheme (EBITDA stands for earnings before interest, taxes, depreciation and amortization). This is the key investment metric used by investors to assess a project as it provides a snapshot of short-term operational efficiency and in this case shows the Aparthotel operators ability to pay rent, debt costs and taxes. For this investment, the range of expected EBITDA is £4.70m to £6.87m, a spread of £2.17m.

1.7 JLL Hotels & Hospitality Group ("JLL") were commissioned by the overseas investor to market the opportunity and received strong interest from potential Aparthotel operators with eight Aparthotel operators bidding for this opportunity. All Aparthotel operators were offered a 25-year operational lease on a Full Repairing and Insuring basis and were required to provide full and detailed operating assumptions to support their offers.

1.8 The proposed Aparthotel operator was established in 2005 and has since grown into one of the most respected serviced apartment operators catering to both corporate and leisure guests. They only manage Aparthotel property and have a current average occupation rate of 95%. Their approach to guest experience has allowed them to beat the industry average length of stay by 110 days (4 months for PB vs. 10 nights for industry.) They manage assets across London, with over 400 units across 65 postcodes.

2. Proposal and Issues

2.1 Under the proposals the Council would pay a guaranteed and index linked rent (RPI) subject to a collar of 0% and a cap of 5% for a term of 50 years to the Institutional Investor. Simultaneously, the Aparthotel operator will enter into a 25-year lease with the Council which mirrors the rent review mechanism contained within the Headlease thus maintaining the profit rent received by LBBD. The Aparthotel operator would assume full operating, maintenance, insurance and room occupancy risk during their 25-year lease term.

2.2 If the Aparthotel operator does not renew their lease the Council has the option to either seek a new Aparthotel operator or to redevelop the site for residential and/or office use at the end of the 25-year term.

3.0 Investment Returns

3.1 The proposals contained in this report would help to deliver the Council's Investment and Acquisition strategy (IAS) objectives by increasing properties held within the commercial property asset class in the sub-regional area. There is no capital outlay required from the Council.

3.2 The detailed Red Book Valuation report provided by the Council's external financial advisors GVA on the proposed options is contained at Appendix 2 which is in the exempt section of the agenda as it contains commercially confidential information (relevant legislation - paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)) and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

4.0 Project Delivery Structure

4.1 The transaction structure is a lease and leaseback arrangement between an Institutional Investor (long leaseholder), the Council (head lessee) and a specialist Aparthotel operator as tenant of the Council.

5.0 Hotel Investment Assessment

5.1 The Council have instructed a third-party property consultant (GVA) to assess the investment proposal and to provide a recommendation as to whether to proceed or not. GVA have confirmed that the proposals within this report provide an acceptable investment for the Council and the full report which includes their assessment of value is contained at Appendix 2.

6.0 Project Timetable

6.1 The timing of the transaction and payment of the arrangement fee to the Council would be as follows:

Date	**Milestone**
19 March 2019	Cabinet approval of the investment proposal
27 March 2019	Final hotel operator Investment Panel approval

April 2019	Transaction documentation finalised and signed by The Institutional Investor and the Aparthotel Operator and LBBD
November 2019	Practical Completion – the Aparthotel operator takes possession after signing the building off as completed and enter their lease, LBBD enter their lease with the Institutional Investor and revenue commences. Payment of arrangement fee is expected in Q4 2019/20

7.0 Options Appraisal

7.1 The Council has been approached to participate in a new Aparthotel development in Aldgate. Construction of the new building in underway and Practical Completion is expected in November 2019. An Institutional Investor has been identified to purchase the asset at practical completion and will earn an indexed rental return for the duration lease term with the Council and a specialist ApartHotel operator has been selected following a market opportunity.

7.2 To reduce income risk, the Council has been approached to enter the lease structure between the Institutional Investor and the Aparthotel Operator. Commercially the Council would pay a guaranteed, indexed annual rent to the Institutional Investor and in return retain a profit rent to compensate the Council for providing a rental guarantee. The Council would not be required to provide any capital funding either during construction or during the lease term and would, subject to agreement of the final options, own the asset at the end of the Head Lease term.

7.3 **Scenario 1 – Do Nothing**

7.3.1 The Council has the option to not participate in the arrangement. In this case the Development Owner would seek another Local Authority partner in order to secure the sale to the Institutional Investor. The Council would lose the opportunity to earn an annual profit rent. No arrangement fee would be made to the Council.

7.4 **Scenario 2 – provide a rental guarantee to the Institutional Investor in return for a long-term profit rent (preferred option)**

7.4.1 The profit rent and arrangement fee payable to the Council would generate sustainable long-term returns to support the financial sustainability of the Council in line with the objectives set-out in the IAS.

7.4.2 In addition, the ability to redevelopment the site for housing or alternative uses in the future provides a long-term asset that would support future housing delivery objectives of the Council through direct development of disposal to realise capital value for investment within the borough.

8.0 Consultation

8.1 The proposals in this report have been considered and endorsed by relevant Cabinet Members and the endorsement of the Council's Investment Panel will be sought prior to the finalisation of terms.

9.0 Investment Analysis

9.1 Investment and Acquisition Strategy (IAS)

9.1.1 The proposals in this report would help to deliver the investment objectives of the Investment & Acquisition Strategy. The new hotel would be held within the Commercial asset class of the IAS and would generate a profit rent to compensate the Council for agreeing to guarantee a head lease payment to an institutional investor.

9.1.2 Under the terms of the arrangement the Council will not provide any development funding or incur any future hotel operating costs (capital or revenue). All development risks will remain with the developer.

9.2 Risk

9.2.1 The Authority's payments under its lease will be fixed irrespective of whether the Aparthotel operator continue to meet their obligations under the terms of its own lease. The Authority has several options available should the Aparthotel operator default, which include contracting with other Aparthotel operators, or converting the use to residential and/or office accommodation. In addition, on execution of the headlease, the Institutional Investor will make a 'cushion' payment to LBBD to be held for 3 years. This will provide revenue security should the Aparthotel operator default during the first three-year period from lease commencement date.

9.3 Lease Classification

9.3.1 The lease from the Institutional Investor to the Authority will be deemed a finance lease as substantially all the risks and rewards associated with the asset are passing to the Authority.

9.3.2 This will result in the asset being recognised on the balance sheet with an equivalent liability recognising the payments to be made to the Institutional Investor over the lease term. Each lease payment made will split between reducing the outstanding liability and servicing the interest costs implicit within the lease.

9.3.3 The Authority will recognise the asset as an Investment Property, as it will be held solely to earn rentals or for capital appreciation purposes or both.

9.3.4 The subsequent lease between the Authority and Aparthotel operator can be assessed using a number of classification tests to determine the appropriate lease classification. Reviewing the current proposals in association with these tests suggests that the lease can be classified as an operating lease, in which case all income will be deemed to be revenue.

10. Financial Implications

Implications completed by: Helen Seechurn (Finance Director)

10.1 The financial implications of the proposed investment are contained within the Heads of Terms in the exempt document at Appendix 1 (this appendix is in the exempt section of the agenda as it contains commercially confidential information (relevant legislation - paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)) and the public interest in maintaining the exemption outweighs the public interest in disclosing the information). Members should note the key financial benefits of the scheme include an upfront arrangement fee anticipated to be received in October 2019 is dependent on Cabinet agreement and on completion of this agreement by 29 March 2019.

10.2 Any returns on this scheme are assumed to be revenue contributions which will assist delivery of savings as defined in the MTFS.

10.3 The arrangement with the Council acting as head lessor is not without risk. Further due diligence is required on financial modelling and this will be completed by the Council's independent advisers Link Asset Services and GVA. These reports will need to confirm the initial rental income the Council will receive from the Aparthotel operator and after payment of rent to the institutional investor and also confirm that the indexation for each lease are aligned. Initial calculations indicate that this will leave a profit rent of £0.60m, with future rental payments uplifted 5 yearly for inflation (RPI). It is essential that, prior to any agreement, the cashflows are confirmed and are reflected in any lease agreements.

10.4 Other risks that affect the financial position include the credit rating and security of the Aparthotel operator. The Council will retain step in rights to secure another operator in the event of operator failure. These are dealt with in the GVA property report at Appendix 2.

10.5 The arrangement is a lease and leaseback arrangement, with the Council acting as guarantor of an annual lease arrangement. The impact of the cap/collar has not yet been considered, and sensitivity analysis requires review. Key parts of this agreement are similar to the Travelodge scheme that was agreed by Cabinet in December 2018.

10.6 The arrangement is such that the Council will own the freehold to the land at the end of the lease term for a peppercorn and will in turn benefit from increased land value growth over this period. Over the lease term land values are expected to increase. Not considering land price inflation over the lease term (which is difficult to predict with any certainty) the Council will be able to buy the site for £1 at the end of the term because the Institutional investor will have fully amortised their debt over the lease term.

10.7 Set up costs and SDLT incurred by the Council up to an agreed amount will be funded by the institutional investor.

10.8 Beyond the agreed initial lease period of 25 years with the Aparthotel operator, the council will remain responsible for the asset with the head lease obligation remaining lease term. This currently presents future options to the council including renewal of arrangement or possibility of commercial or residential potential. The current financial appraisal assumes the renewal of hotel operations.

10.9 The IAS approved by Cabinet 16 October 2018 allows for investment: 'To establish a property portfolio to generate long-term revenue and capital growth, targeting an initial revenue return of £5.2m by 2020/21 and indexed at CPI thereafter'. The proposal in this report would contribute to achieving this objective.

10.10 This strategy also, subject to regular review, allows up to 10% of the investment asset portfolio structure (currently £100m allocation) being 0.64% net yield (after debt). Whilst this decision will not score against the £100m target because it will not be financed through prudential borrowing, the expected yield (based on capital costs for comparison purposed) to be achieved from the scheme is expected to be above the target net yield (after finance costs) for this asset class.

10.11 It should be noted that although there is no additional borrowing required to enter this deal that the Council will be assuming obligations under the head lease with the Institutional Investor and the risks associated with this lease (principally the Obligation to pay an indexed rent for the lease term) will need to be taken into account when making future investment decisions.

10.12 The pre-development and development costs will be met by the Developer. Consequently, the council will not be responsible for development cost overruns. The development is currently part constructed and will be scheduled to be completed and operational by October 2019.

10.13 In making this decision members should also refer to the legal implications as detailed in that section. It should be noted that although not located in this borough this project will increase business rates in the London Business Rates Pool of the Council is a constituent member.

11. Legal Implications

Implications completed by: Suzan Yildiz, Deputy Head of Legal Services
(Trowers and Hamlin are also advising the Council on the transaction)

11.1 Council's powers to enter into the proposed arrangements

11.1.1 The Council has a variety of powers to enable it to enter into the proposed transaction. These are subject to the Council also complying with its fiduciary duties to its taxpayers/residents.

11.1.2 The actual powers which the Council relies on is to an extent governed by its purpose/intention in entering into the arrangements and whether any of the limitations or restrictions of those powers conflict with the proposals made by the fund.

11.1.3 We have separated the proposed transaction into relevant stages.

11.2 Entering the Lease with the Institutional Investor

11.2.1 Section 120 of the Local Government Act 1972 (section 120) gives the Council the power to acquire land (including a leasehold interest) for a purpose relating to any of its powers or pursuant to duties under any enactment (other purpose).

11.2.2 The Council in exercising section 120 may acquire land within or outside its area.

11.2.3 This means that the Council is required to identify another function (power or duty) which it seeks to exercise/rely on. Two powers which may be available include the general power and its investment power under Section12 of the Local Government Act 2003.

11.3 **The general power**

11.3.1 The general power is set out in chapter 1 of the Localism Act 2011 and permits the Council to do anything which an individual may do. The general power is subject to several limitations which include that it cannot be used to circumvent any prohibition or restriction which exists in legislation which precedes the general power. We are not aware of any contravening legislation which would apply to the proposed transaction.

11.3.2 The general power is also subject to the limitation under section 4 of the Localism Act 2011, namely that if it is used for a commercial purpose then the Council must do that thing through a company or society registered or deemed to be registered.

11.3.3 Should the Council rely on the general power to directly enter the lease (rather than using a Council-owned company to do so) the Council would have to satisfy itself that it was not acting predominantly for a commercial purpose. In doing so it would have to analyse whether the letting of an Aparthotel (in terms of the arrangements) was 'trading'.

11.4 **Section 12 – the Local Government Act 2003 (LGA 2003) (Power to invest)**

11.4.1 The Council's power to invest (Section 12, LGA 2003) may be exercised for any purpose relevant to its functions or for the purposes of the prudent management of its financial affairs. In exercising this power, the Council would rely on the second limb, namely that the proposals aid prudent financial management and should have regard to relevant statutory guidance. The financial implications consider how the proposals assist the prudent management of the Council finances.

11.4.2 The Ministry of Housing Communities and Local Government (MHCLG) issued new statutory guidance (attached to the email) under section 15 of the Local Government Act 2003 on local authority investments on 1 April 2018 (MHCLG Guidance). In approving the proposals both officers and decision makes should have regard to relevant aspects of the MHCLG Guidance.

11.4.3 Local Authorities are required to adopt an updated investment strategy as is required in that guidance. The Council's Investment Strategy contains provision for commercial investments in hotel and leisure facilities. The report and accompanying financial reports (which are confidential and exempt) address how the proposals are aligned with the investment parameters for the commercial asset class.

11.4.4 The Guidance references 'non-financial assets' which includes certain property portfolios: 'non-financial assets that the organisation holds primarily or partially to generate a profit; for example, investment property'.

11.4.5 There are specific requirements for non-financial investments, and property portfolios, set out in paragraphs 37 to 40 of the Guidance. The Guidance requires local authorities to consider whether the asset retains enough value to provide security of investment using the fair value model in International Accounting Standard 40: Investment Property as adapted by proper practices.

11.4.6 In taking forward the proposals finance and legal officers should discuss the impact of MHCLG's Guidance and whether the arrangements qualify as 'non-financial assets' under it. Consideration of the financial implications should include the extent to which the proposals amount to fair value and any proposed mitigation of risks.

11.5 **Power to grant a lease to the Aparthotel operator**

11.5.1 The Council has a power to grant a leasehold interest in the property to the Aparthotel operator under section 123 of the Local Government Act 1972. In doing so it should ensure that it receives the best consideration which reasonably could be obtained. A valuation report confirming this should be obtained.

11.6 **The Council's Fiduciary Duties**

11.6.1 The Council’s fiduciary duties could be briefly summarised as it is acting as a trustee of tax and public sector income on behalf of its residents’ rate and tax payers. The Council in effect holds money but does not own it; it spends money on behalf of its residents' business rate and council tax payers.

11.6.2 The Cabinet in agreeing the recommendations should consider the risks and rewards of approving them and the proposed arrangements. In practice the Cabinet should consider whether the proposals are on market normative terms which a prudent investor on the open market would enter into, whether the Council will achieve an appropriate return for the risk it is taking and whether the risk and potential cost to it of entering into the arrangements can be appropriately mitigated. Those the Cabinet delegate to should also consider the Council's Fiduciary Duties in finalising and agreeing the documentation.

11.7 **Procurement structuring**

11.7.1 The primary purpose of the transaction appears to be one of landlord and tenant and as such there is a strong legal argument that it falls outside of the Public Contracts Regulations 2015.

11.7.2 In finalising the documentation and structure advice should be obtained to ensure that any risk of procurement challenge is mitigated and minimised. Advice should be obtained at an early stage of negotiations about this.

11.8 **State aid compliance**

11.8.1 Under the proposals the Council will be entering into the arrangements mainly for mainly financial purposes. The leasing and letting of Aparthotel accommodation are market activity and in agreeing final terms for both the Institutional Investor and Aparthotel operator leases, the Council should be satisfied they are state aid compliant. To do this the Council should ensure it acts as a market operator would, meaning the terms it agrees should be such that an operator or investor in the private sector would agree to those terms in the same or similar circumstances). The Council should seek evidence from a commercial adviser whether in their opinion market/private sector parties in the same circumstances would be likely to do agree to the same or broadly comparable terms which constitute the market norm. Such a report (confirming that private/market sector parties will do so) will evidence state aid compliance.

11.9 **Risk Management**

11.9.1 Investment transactions of this nature carry a range of risks which are effectively detailed below. A number of risk factors, including planning, title investigations, commercial terms and construction, warrant early due diligence, with the aim of determining whether any of those risk factors have adverse implications on the transaction, including impact on future capital value and income yields. For example, if planning permissions regulating the development in terms of scale, nature/use class and restrictions do not materially align with the proposal pitched or valuation assumptions, the associated risks may impact on usage of the completed development and consequently income. As the Council carries the risk of paying guaranteed rent under a headlease, it is imperative to carry out due diligence to appraise the risks.

Trowers have been commissioned to report on preliminary due diligence, which should be considered fully by the Chief Operating Officer, as a delegate, before proceeding with the transaction. As the transaction progresses, Trowers would report more fully on due diligence. It is recommended that as heads of terms for the Council's headlease are distilled and transaction documents (such as an agreement for lease) progress that the valuers should have the opportunity to comment on the terms, and that the legal and valuation considerations are closely integrated.

12. Other Implications

12.1 **Risk Management**

12.1.1 **Planning Risk –** It is of critical importance to establish planning risk and impact on value/income for uses of this nature which are an emerging asset class and arguably straddle different use classes (residential, hotels or sui generis). C1 Class hotel use is imperative to ensure that the permissible use aligns with the business model for apart hotels and to check the various conditions or restrictions that may apply. These issues are important and can go to value, both in terms of capital growth and risk to income. Planning can add or remove value. A use class of C3 or sui generis would be restrictive. Title, property, construction and other asset management risks will need to be considered in the detailed due diligence stage.

12.1.2 **Construction Risk** – All development and construction risks, including ground contamination, are borne by the developer.

12.1.3 **Hotel Market Risk** –The Council's external property advisors have produced a detailed report on the investment proposals including a formal valuation. This report is contained at Appendix 2, the basis of which is summarised within this report. It is considered that this investment proposal is a market facing Aparthotel investment opportunity that would be acceptable to other private and institutional investors.

12.1.4 **Operator default** – Unlike other real estate investments where rents cease completely in the event of an Aparthotel operator default, for Hotels and Aparthotels the asset could continue to operate as a standalone business meaning it could continue to generate revenue. However, the most likely scenario in the event of an Aparthotel operator default would be that the Council would look to secure another Aparthotel operator to take over the lease.

12.1.5 The covenant strength of the Aparthotel operator has been considered by the Council's external property advisors who consider that the covenant strength of the Aparthotel operator combined with the strength of interest in the proposal from the eight ApartHotel operators that bid for the opportunity, as well as the terms of the full FRI lease outlined within the Heads of Terms represents a strong investment opportunity.

12.1.6 On execution of the headlease, in addition to the arrangement fee, the Institutional Investor will make a 'cushion' payment to LBBD to be held for 3 years should the Aparthotel operator default during that period. This will provide additional security to LBBD as outlined in the Heads of Terms.

12.1.7 **Funding risk** - The Council has no direct funding obligation in the proposed lease structure during construction or during the term of the Aparthotel operator lease. The Council will only enter the lease structure on Practical Completion and commencement of hotel operations.

12.1.8 **Redevelopment risk** - if the Aparthotel operator lease was determined the Council would have a number of options it could pursue which are;

- to find another Aparthotel operator - given the strength of the London Docklands Aparthotel market as outlined by the market interest in the current opportunity, it is considered that a new hotel operator could be appointed. A new hotel operator could be granted a new lease on the same or similar terms to the existing Aparthotel operator lease, but they would require a rent-free period to rebrand and refurbish the building - typical such rent free period are two years (c £6m). The Council would receive no during this period.

- redevelop/ convert the building for another use – this could be negotiated with the institutional investor and could provide residential/regeneration outcomes but would require new planning permissions and capital funding. A capital sum will be required for any conversion which along with the revenue loss during the conversion phase would need to be funded by the Council

- Alternatively, the Council could either directly manage the asset itself or seek to appoint a hotel operator under a direct management contract to manage the hotel on behalf of the Council. In this case the Council would assume operations risk but could earn a significantly higher income from hotel operations than the expected profit rent.

To mitigate the impact of these risks the Council should ensure it retains a significant proportion of the arrangement fee in a reserve. As such, if approved the next iteration of the IAS will detail the arrangements for the proposed reserve as well as how and when these could be accessed.

12.2 **Contractual Issues** – Contractual implications are as described and covered within the Legal Implications section of this report.

12.3 **Staffing Issues** – There are no staffing issues associated with this report.

12.4 **Corporate Policy and Customer Impact** – The proposal in this report would help to deliver the objectives of the Council's Investment and Acquisition Strategy and would help to provide revenue to support Council expenditure.

12.5 **Property / Asset Issues** – A 25-year renewable lease would exist with the Aparthotel operator. This would generate an indexed profit rent for the Council. There are provisions for rent increases every five years within the lease at 1% collar and 5% cap, based upon the Retail Price Index. These provisions are mirrored in the Head Lease between the Council and Institutional Investor. The Aparthotel would be a full repairing and insuring lease. In the longer-term the Council could seek to sell or redevelop the site for residential or mixed use to help deliver the Council's Housing Strategy at that time.

Public Background Papers Used in the Preparation of the Report: none

List of appendices:

Appendix 1: Draft Heads of Terms (exempt document)
Appendix 2: Draft GVA Valuation Report (exempt document)

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CABINET

19 March 2019

Title: Debt Management Performance and Write-Offs 2018/19 (Quarter 3)	
Report of the Cabinet Member for Finance, Growth, and Investment	
Open Report	**For Information**
Wards Affected: None	**Key Decision:** No
Report Author: Gill Hills, Head of Revenues	**Contact Details:** Tel: 0208 724 8615 E-mail: gill.hills@elevateeastlondon.co.uk
Accountable Strategic Leadership Director: Claire Symonds, Chief Operating Officer	

Summary

This report sets out the performance of the Council's partner, Elevate East London, in carrying out the contractual debt management function on behalf of the Council. This report covers the third quarter of the financial year 2018/19. The report also includes summaries of debt written off in accordance with the write off policy that was approved by Cabinet on 18 October 2011. The report demonstrates that performance is stable and continuing to improve year on year in terms of overall cash collection, though continuing to be impacted by welfare reform measures.

Recommendation(s)

The Cabinet is recommended to:

(i) Note the performance of the debt management function carried out by the Revenues and Benefits service operated by Elevate East London, including the performance of enforcement agents; and

(ii) Note the debt write-offs for the third quarter of 2018/19.

Reason

Assisting in the Council's Policy aim of ensuring an efficient organisation delivering its statutory duties in the most practical and cost-effective way. This ensures good financial practice and adherence to the Council's Financial Rules on the reporting of debt management performance and the total amounts of debt written-off each financial quarter.

1. Introduction and Background

1.1 The Council's Revenues, Benefits, General Income and Rents Service is operated by the Council's joint venture company, Elevate East London LLP (Elevate). The service is responsible for the management of the Council's debt falling due by way of statutory levies and chargeable services. It also collects rent on behalf of Barking and Dagenham Reside. Council debts not collected by Elevate are not included in this report, for example parking and road traffic debt prior to warrants being granted and hostel and private sector leasing debt.

1.2 This report sets out performance for the third quarter of the 2018/19 municipal and financial year and covers the overall progress of each element of the service since April 2018. In addition, it summarises debts that have been agreed for write off in accordance with the Council's Financial Rules. All write offs are processed in accordance with the Council's debt management policy agreed on 18th October 2011.

1.3 The target for Council Tax current year collection remains the same as 2017/18 at 96%. The increase in Council Tax in 18/19 means that to achieve target an additional £5.2m must be collected. The Council Tax arrears target has increased by £180,300 to £2,302,300. The General Income target has increased by 0.2% to 96.2% which approximately equates to an additional £200k.

2. Proposal and Issues

2.1 Set out in Table 1 below is the performance for quarter three of 2018/19 achieved for the main areas of debt managed by Elevate.

Table 1: Collection Rate Performance – Quarter three 2018/19

Type of Debt	Year end target	Quarter 3 target	Quarter 3 Performance	Variance	Actual collected
Council Tax	96.00%	82.1%	81.9%	-0.2%	£62.968m
Council Tax Arrears	£2.302m	£1.902m	£2.063m	+£0.161m	£2.063m
NNDR	98.30%	78.9%	79.0%	+0.1%	£48.541m
Rent	96.75%	74.26%	73.88%	-0.38%	£74.011m
Leaseholders	98.30%	76.71%	74.30%	-2.41%	£3.210m
General Income	96.20%	91.77%	94.22%	+2.45%	£79.062m

Council Tax Collection Performance

2.2 Council Tax collection for Quarter 3 is 0.2% below the target.

2.3 The amount of Council Tax charged in 2018/19 has increased by £5.3m compared with 2017/18.

2.4 Alongside this increase in Council Tax charged, Council Tax Support has decreased month on month since the start of 2018/19. By the end of Quarter 3 of 2018/19 CTS payments had dropped by £677k compared with £177k for the same period in 2017/18.

2.5 The CTS caseload continues to drop month on month. At the end of quarter 3 2017/18 CTS made up 15.4% of the total Council Tax charged, this has now decreased to 14.2% in 2018/19.

2.6 This reduction is the equivalent of £923k. This is the additional Council Tax that will be charged to Council Tax payers.

2.7 The introduction of Universal Credit (UC) has increased administration and caused the issuing of multiple bills in some cases. This is because the DWP notify the Local Authority of a claimant's new application for UC, CTS is subsequently suspended, and this results in the issuing of a new bill with new instalments. If the applicant is successful and receives UC the Local Authority is informed, CTS is re-applied, and a new bill and instalments issued. This has resulted in an increase in contact and a reduction in debt recovery documents, i.e. reminders. In these cases, the bill is inaccurate until UC is granted, and it is not possible to determine whether the resident is behind with payments.

2.8 The effects of this are being closely monitored.

Council Tax Arrears

2.9 In quarter 3 arrears collection was £161k above the target.

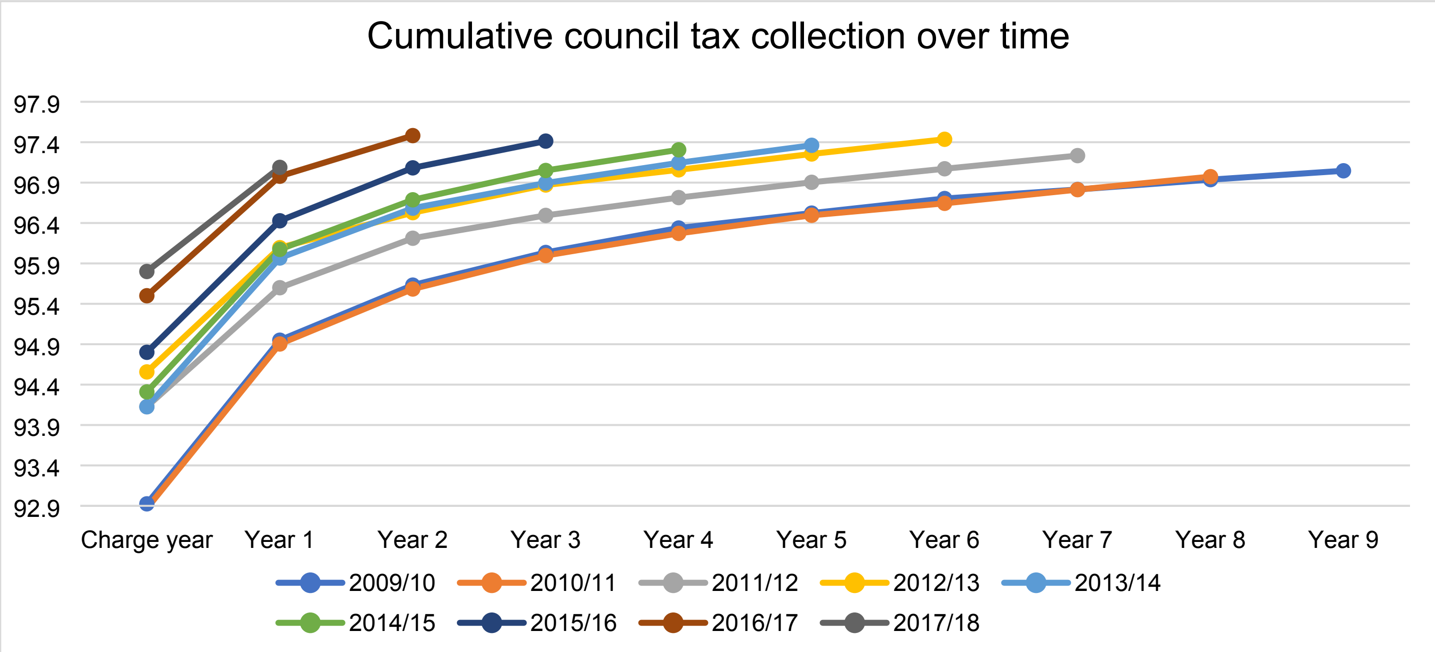
2.10 The Council Tax Collection Team continues to face numerous challenges around Council Tax collection. These include the Council Tax Support scheme, the increasing number of properties within the borough, increases in the Council Tax charge and the introduction of Universal Credit.

2.11 The table below shows how Council Tax collection continues long after the initial charge year:

Table 2:

Year	Charge year	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
2009/10	92.9	94.9	95.6	96.0	96.3	96.5	96.7	96.8	96.9	97.0
2010/11	92.9	94.9	95.6	96.0	96.3	96.5	96.6	96.8	97.0	
2011/12	94.1	95.6	96.2	96.5	96.7	96.9	97.1	97.2		
2012/13	94.6	96.1	96.5	96.9	97.1	97.3	97.4			
2013/14	94.1	96.0	96.6	96.9	97.1	97.4				
2014/15	94.3	96.1	96.7	97.1	97.3					
2015/16	94.8	96.4	97.1	97.4						
2016/17	95.5	97.0	97.5							
2017/18	95.8	97.1								

2.12 The graph below shows the improved performance in each year, except for 2013/14 when welfare reform had a marked effect on collection rates. Each line shows performance within that year, the bottom line (blue) shows collection for the charge year (the year in which the tax was first raised), the next (orange) shows performance in year 1 (the first year after the charge year) and so on. As can be seen overall collection of Council Tax continues year on year and has steadily improved since 2010/11.



Business Rates (NNDR) Collection Performance

2.13 The NNDR collection rate for quarter 3 was 0.1% above target.

Rent Collection Performance

2.14 Rent collection for quarter 3 is 0.38% below target, which is the equivalent of £383k.

2.15 Analysis of the effects of Universal Credit have shown a considerable increase in arrears since going live at the end of March 18.

2.16 The number of tenants currently in receipt of Universal Credit is 1,138 of which 74% are in arrears. In comparison 35% of tenants still in receipt of Housing Benefits are in arrears.

2.17 Rent arrears for those tenants in receipt of Universal Credit now totals £1.1m compared with 960k for those still on Housing Benefit. Whilst the total amount of arrears for those on Housing Benefits remains relatively static, arrears for those in receipt of Universal Credit is increasing on average by £108k per month.

Reside Collection Performance

2.18 In addition to collecting rent owed on Council tenancies, Elevate also collects the rent for the Barking & Dagenham Reside portfolio. Quarter 3 collection is 99.68% which is 0.18% above target.

Leaseholders' Debt Collection Performance

2.19 Leaseholder collection for quarter 3 is 2.41% below target. Continuing delays in updating the database have caused a reduction in collection. The Home Ownership Department are taking steps to reduce the backlog. However, it will not now be possible to achieve the target before the end of the year and discussions have started with a mind to agreeing a reduced target.

General Income Collection Performance

2.20 General Income collection for quarter 3 is 2.45% above target. Fluctuations in invoicing can result in higher or lower percentages of collection. However, collection remains strong in this area.

Adult Social Care – Collection of Social Care Charges (home and residential)

2.21 Homecare collection for quarter 3 is 0.87% above target.

2.22 Residential collection for quarter 3 is 4.8% below target

2.23 The debt recovery process for these debts is similar to that for other debts, but with extra recognition given to particular circumstances. To ensure that the action taken is appropriate and to maximise payments, each case is considered on its own merits at each stage of the recovery process and wherever possible payment arrangements are agreed. In addition, a further financial reassessment of a client's contribution is undertaken where there is extraordinary expenditure associated with the care of the service user. The relevant procedures have been updated to take account of the Care Act.

Penalty Charge Notices (PCN) – Road Traffic Enforcement

2.24 Road Traffic Enforcement collection for quarter 3 is estimated to be on target. It has not been possible to produce collection statistics for December. The Enforcement Agent, Equita, experienced a cyber-attack before December and are currently rebuilding their server. Equita have confirmed that no data has been lost.

2.25 This recovery work only includes debts due to Penalty Charge Notices (PCNs) for parking, bus lane and box junction infringements once a warrant has been obtained by Environmental and Enforcement Services (Parking Services) from the Traffic Enforcement Centre (TEC). Given the various legal stages required to be exhausted before a warrant can be obtained, this debt is regularly more than six months old before it is released to Elevate for enforcement. Elevate enforce these warrants through Enforcement Agents acting on behalf of the Council and closely monitor the performance of these companies. Overall collection rates on PCNs would be reported by Parking Services.

Housing Benefit Overpayments

2.26 Housing Benefit overpayment collection for quarter 3 is 4.4% above the target.

2.27 Creation of Housing Benefit Overpayments has increased considerably in quarter 3. The introduction of the Verify Earnings and Pensions Alert Service (VEP) by the DWP has increased the number of overpayments which has now increased from an average of £450k per month to £950k per month.

2.28 This is resulting in an increase in workload and a decrease in the percentage of collection. Cash collection in 19/20 has increased by £100k and the estimated percentage of collection excluding VEP would be 5% higher. At the current rate of debt creation and despite the increase in cash collection, it is predicted that the target will not be achieved this year.

Enforcement Agent (Bailiff) Performance

2.29 Enforcement Agent action is a key tool for the Council to recover overdue debts but is only one area of collection work and is always the action of last resort. The introduction of the CTS scheme in 2013/14 meant around 13,000 additional households became liable to pay a proportion of Council Tax. This number increased again in April 2015 with the revised CTS scheme meaning that there has been additional debt recovery action. The affected group of residents are working-age but their circumstances vary as they move in and out of work. The ability to collect all sums due to the Council continues to be made progressively more challenging as welfare reforms continue to take effect. This is alongside the cumulative yearly effect of CTS on arrears which is increasing overall indebtedness.

2.30 Information on the performance of the Enforcement Agents is set out in the table below by type of debt for the third quarter of 2018/19.

Table 3: Enforcement Agent Collection Rates – 2018/19

Service	Value sent to enforcement agents £	Total collected by enforcement agents £	2018/19 Collection rate %
Council Tax	£9,926,831	£729,922	7.35%
NNDR	£2,263,877	£374,547	16.54%
Commercial rent	£21,000	£21,000	100%
General Income	£0	£0	0%

Debt Write-Offs: Quarter 3 2018/19

2.31 All debt deemed suitable for write off has been through all the recovery processes and is recommended for write off in accordance with the Council's policy. The authority to "write off" debt remains with the Council. The value of debt recommended to the Chief Operating Officer and subsequently approved for write off during the third quarter of 2018/19 totalled £96,678. The value and number of cases written off in third quarter is provided in Appendix A.

2.32 88 debts were written off in quarter 3 for which the reasons are set out below. The percentage relates to the proportion of write offs by value, or by number:

Table 4: Write off numbers – 2018/19 Quarter 3

Absconded/not traced	Uneconomic to pursue	Debtor Insolvent	Deceased	Other reasons
£2,720	£2,145	£14,335	£27,428	£50,050
3%	2%	15%	28%	52%

Absconded/not traced	Uneconomic to pursue	Debtor Insolvent	Deceased	Other reasons
1	17	7	47	16
1%	19%	8%	53%	18%

"Other reasons" include the following categories:
Insolvency
Remitted by court
Debtor outside UK
Prison sentence served in respect of debt
Benefit overpayment – unrecoverable in accordance with Housing Benefit General regulations 1987
The court refuses to make an order in respect of the debt
Statute barred due to age of debt
Small balance
Negotiated settlement of part of debt
Vulnerable
In prison

2.33 The figures in Appendix B show the total write-offs for 2011/12, 2012/13, 2013/14, 2014/15, 2016/17 and 2017/18.

3. Financial Implications

Implications completed by: Thomas Mulloy, Chief Accountant

3.1 Collecting all debts due is critical to the Council's ability to fund Council services and maintain the Council's cash flow. In view of this, monitoring performance is a key part of the monthly meetings with Elevate.

3.2 The monthly meetings between Elevate and the Council mainly focus on the areas where the targets are not being achieved to discuss ways to improve prompt collection of Council revenues.

3.3 At the end of quarter 3, Elevate has achieved many but not all of its targets. Performance underachieved in some key collection areas. i.e. Council Tax and Rent.

3.4 Performance on Council Tax is currently below the target by 0.2%, which is equivalent to a cash shortfall of £166k. Rent is currently below the target by 0.38%, which is equivalent to a cash shortfall of £382k.

3.5 The importance of prompt collection is that debts become more difficult to collect as the debt ages and there is a much greater risk of not being able to collect older debts. The Council maintains a provision for Bad Debts from which the cost of uncollectable debts relating to 2017/18 and earlier years are charged, the preventing any impact upon the Councils current revenue income. A periodical review is carried out required to ensure the adequacy of the Council's Bad Debt Provisions adjustments to the provisions are met from the Council's revenue budget and reduce the funds available for other Council expenditure.

3.6 The level of write offs for the year as at the end of quarter 3 total £96,678. It is important that bad debts are written off promptly so that the Council can maintain the appropriate level of bad debt provision. The approved write offs can be met from the Council's current Bad Debt Provision.

4. Legal Issues

Implications completed by: Dr. Paul Feild, Senior Governance Lawyer

4.1 Monies owned to the Council in the form of debts are a form of asset that is the prospect of a payment sometime in the future. The decision not to pursue a debt carries a cost and so a decision not to pursue a debt is not taken lightly.

4.2 The Council holds a fiduciary duty to the ratepayers and the government to make sure money is spent wisely and to recover debts owed to it. If requests for payment are not complied with then the Council seeks to recover money owed to it by way of court action once all other options are exhausted. While a consistent message that the Council is not a soft touch is sent out with Court actions there can come a time where a pragmatic approach should be taken with debts as on occasion they are uneconomical to recover in terms of the cost of process and the means of the debtor to pay. The maxim *no good throwing good money after bad* applies. In the case of rent arrears, the court proceedings will be for a possession and money judgement for arrears. However, a possession order and subsequent eviction order is a discretionary remedy and the courts will more often than not suspend the possession order on condition the tenant makes a contribution to their arrears.

4.3 Whilst the use of Introductory Tenancies as a form of trial tenancy may have some impact in terms promoting prompt payment of rent as only those tenants with a satisfactory rent payment history can expect to be offered a secure tenancy, people can fall behind and get into debt. The best approach to resolve their predicament is to maintain a dialogue with those in debt to the Council, to offer early advice and help in making repayments if they need it and to highlight the importance of payment of rent and Council tax. These payments ought to be considered as priority debts rather than other debts such as credit loans as without a roof over their heads it will be very difficult to access support and employment and escape from a downward spiral of debt.

4.4 The decision to write off debts has been delegated to Chief Officers who must have regard to the Financial Rules.

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

List of appendices:

- **Appendix A** – Debt Write Off Table for Quarter 3 2018/19
- **Appendix B** – Total debts written off in 2011/12, 2012/13, 2013/14, 2014/15, 2015/16, 2016/17 and 2017/18

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Appendix A

Debts Written Off during Quarter 1 2018/19

Write-offs		Housing Benefits	General Income	FTA	Rents	Council Tax	NNDR	TOTAL
Apr-18	Under 2k	£0	£0	£0	£0	£14,058	£0	£14,058
	Over 2k	£0	£0	£0	£0	£0	£0	£0
	Over 10k	£0	£0	£0	£0	£0	£0	£0
	Total	**£0**	**£0**	**£0**	**£0**	**£14,058**	**£0**	**£14,058**
May-18	Under 2k	£0	£681	£0	£1,307	£0	£0	£41,017
	Over 2k	£0	£5,412	£0	£6,719	£0	£0	£27,620
	Over 10k	£0	£0	£0	0	£0	£0	£14,708
	Total	**£0**	**£6,093**	**£0**	**£0**	**£0**	**£0**	**£83,346**
Jun-18	Under 2k	£5,956	£2,734	£128	£0	£2,777	£0	£57,227
	Over 2k	£0	£0	0	0	£0	£0	£0
	Over 10k	£0	£0	0	0	£0	£0	£0
	Total	**£5,956**	**£2,734**	**£128**	**£0**	**£2,777**	**£0**	**£56,959**
Quarter 1 Totals		**£5,956**	**£8,827**	**£128**	**£8,027**	**£16,835**	**£0**	**£140,573**

Count for Quarter 1 2018/19

Write-offs		Housing Benefits	General Income	FTA	Rents	Council Tax	NNDR	TOTAL
Apr-18	Under 2k	0	0	0	0	40	0	**40**
	Over 2k	0	0	0	0	0	0	**0**
	Over 10k	0	0	0	0	0	0	**0**
	Total	**0**	**0**	**0**	**0**	**40**	**0**	**40**
May-18	Under 2k	0	3	0	1	0	0	**4**
	Over 2k	0	2	0	1	0	0	**3**
	Over 10k	0	0	0	0	0	0	**0**
	Total	**0**	**5**	**0**	**2**	**0**	**0**	**7**
Jun-18	Under 2k	4	4	1	0	20	0	**29**
	Over 2k	0	0	0	0	0	0	**0**
	Over 10k	0	0	0	0	0	0	**0**
	Total	**4**	**4**	**1**	0	**20**	0	**29**
Quarter 1 Totals		**4**	**9**	**1**	**2**	**60**	**0**	**76**

Debts Written Off during Quarter 2 2018/19

Write-offs		Housing Benefits	General Income	FTA	Rents	Council Tax	NNDR	TOTAL
July 18	Under 2k	£3,648	£0	£0	£0	£1,388	£0	£5,036
	Over 2k	£0	£0	£0	£0	£0	£0	£0
	Over 10k	£0	£0	£0	£0	£0	£0	£0
	Total	**£3,648**	**£0**	**£0**	**£0**	**£1,388**	**£0**	**£5,036**
Aug-18	Under 2k	£2,490	£175	£0	£0	£0	£12,280	£0
	Over 2k	£0	£0	£88,314	£0	£0	£0	£0
	Over 10k	£0	£0	£0	0	£0	£0	£0
	Total	**£2,490**	**£175**	**£88,314**	**£0**	**£0**	**£12,280**	**£103,259**
Sep-18	Under 2k	£344	£0	£73,902	£2,399	£754	£0	£77,399
	Over 2k	£0	£0	0	0	£0	£0	£0
	Over 10k	£0	£0	0	0	£0	£0	£0
	Total	**£344**	**£0**	**£73,902**	**£0**	**£754**	**£0**	**£0**
Quarter 2 Totals		**£6,483**	**£175**	**£162,216**	**£2,399**	**£2,142**	**£12,280**	**£185,694**

Count for Quarter 2 2018/19

Write-offs		Housing Benefits	General Income	FTA	Rents	Council Tax	NNDR	TOTAL
July 18	Under 2k	19	0	0	0	20	0	**39**
	Over 2k	0	0	0	0	0	0	**0**
	Over 10k	0	0	0	0	0	0	**0**
	Total	**19**	**0**	**0**	**0**	**20**	**0**	**39**
Aug-18	Under 2k	3	3	23	0	0	18	**47**
	Over 2k	0	0	0	0	0	0	**0**
	Over 10k	0	0	0	0	0	0	**0**
	Total	**3**	**3**	**23**	**0**	**0**	**18**	**47**
Sep-18	Under 2k	1	0	133	3	21	0	**158**
	Over 2k	0	0	0	0	0	0	**0**
	Over 10k	0	0	0	0	0	0	**0**
	Total	**1**	**0**	**133**	**0**	**21**	**0**	**158**
Quarter 2 Totals		**23**	**3**	**156**	**3**	**41**	**18**	**244**

Debts Written Off during Quarter 3 2018/19

Write-offs		Housing Benefits	General Income	FTA	Rents	Council Tax	NNDR	TOTAL
Oct 18	Under 2k	£5,079	3,072	£0	£0	£0	£0	£8,150
	Over 2k	£0	£0	£0	£0	£0	£0	£0
	Over 10k	£0	£0	£0	£0	£0	£0	£0
	Total	**£5,079**	**£7,533**	**£15,209**	**£0**	**£1,388**	**£0**	**£27,821**
Nov-18	Under 2k	£4,783	£2,867	£9,615	£0	£0	£12,280	£17,264
	Over 2k	£0	£0	£3,764	£0	£0	£0	£3,764
	Over 10k	£0	£0	£0	0	£0	£0	£0
	Total	**£4,783**	**£2,867**	**£13,379**	**£0**	**£0**	**£12,280**	**£21,029**
Dec-18	Under 2k	£0	£0	£170	£0	£0	£0	£170
	Over 2k	£0	£0	£47,659	0	£0	£0	£47,659
	Over 10k	£0	£0	0	0	£0	£0	£0
	Total	**£0**	**£0**	**£47,829**	**£0**	**£754**	**£0**	**£47,829**
Quarter 3 Totals		**£9,862**	**£10,400**	**£76,416**	**£0**	**£0**	**£0**	**£96,678**

Count for Quarter 3 2018/19

Write-offs		Housing Benefits	General Income	FTA	Rents	Council Tax	NNDR	TOTAL
Oct-18	Under 2k	19	21	0	0	0	0	**40**
	Over 2k	0	1	0	0	0	0	**1**
	Over 10k	0	0	1	0	0	0	**1**
	Total	**19**	**22**	**1**	**0**	**20**	**0**	**42**
Nov-18	Under 2k	17	2	13	0	0	0	**32**
	Over 2k	0	0	1	0	0	0	**1**
	Over 10k	0	0	0	0	0	0	**0**
	Total	**17**	**2**	**14**	**0**	**0**	**0**	**33**
Dec-18	Under 2k	0	0	1	0	0	0	**1**
	Over 2k	0	0	12	0	0	0	**12**
	Over 10k	0	0	0	0	0	0	**0**
	Total	**0**	**0**	**13**	**0**	**0**	**0**	**13**
Quarter 3 Totals		**36**	**24**	**28**	**0**	**0**	**0**	**88**

Appendix B

Table 1: Debts written off during 2011/12

Write Offs	Housing Benefits	General Income Debts	Former Tenant Arrears	Rents	Council Tax	NNDR	TOTAL
2011/12 Totals	£260,487	£145,284	£987,383	£2,808	£205,789	£772,683	£2,374,434

Table 2: Debts written off during 2012/13

Write Offs	Housing Benefits	General Income Debts	Former Tenant Arrears	Rents	Council Tax	NNDR	TOTAL
2012/13 Totals	£110,876	£141,896	£886,890	£23,360	£1,015,408	£569,842	£2,748,272

Table 3: Debts written off during 2013/14

Write Offs	Housing Benefits	General Income Debts	Former Tenant Arrears	Rents	Council Tax	NNDR	TOTAL
2013/14 Totals	£141,147	£256,804	£806,989	£8,681	£80,755	£221,380	£1,515,756

Table 4: Debts written off during 2014/15

Write Offs	Housing Benefits	General Income Debts	Former Tenant Arrears	Rents	Council Tax	NNDR	TOTAL
2014/15 Totals	£291,469	£88,675	£1,163,134	£3,166	£205,007	£517,201	£2,268,652

Table 5: Debts written off during 2015/16

Write Offs	Housing Benefits	General Income Debts	Former Tenant Arrears	Rents	Council Tax	NNDR	TOTAL
2015-16 Totals	£211,930	£141,411	£693,017	£6,075	£549,051	£741,557	£2,343,041

Table6: Debts written off during 2016/17

Write Offs	Housing Benefits	General Income	FTA	Rents	Council Tax	NNDR	TOTAL
2016-17 Totals	£180,049	£72,808	£38,973	£28,183	£0	£132,875	£452,888

Table7: Debts written off during 2017/18

Write Offs	Housing Benefits	General Income	FTA	Rents	Council Tax	NNDR	TOTAL
2017-18 Totals	£199,548	£23,145	£392,273	£0	£90,148	£3,246	£708,359