

Cabinet

Tuesday 7 June 2016

4.00 pm

Ground Floor Meeting Room GO2A, 160 Tooley Street, London SE1 2QH

Membership

Councillor Peter John OBE (Chair)
Councillor Stephanie Cryan

Councillor Maisie Anderson
Councillor Fiona Colley
Councillor Barrie Hargrove
Councillor Richard Livingstone
Councillor Victoria Mills
Councillor Johnson Situ
Councillor Mark Williams
Councillor Ian Wingfield

Portfolio

Leader of the Council
Deputy Leader and Cabinet Member for
Housing
Public Health, Parks and Leisure
Finance, Modernisation and Performance
Communities and Safety
Adult Care and Financial Inclusion
Children and Schools
Business, Employment and Culture
Regeneration and New Homes
Environment and the Public Realm

INFORMATION FOR MEMBERS OF THE PUBLIC

Access to information

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Contact

Virginia Wynn-Jones 020 7525 7055 or Paula Thornton 020 7525 4395
Or email: virginia.wynn-jones@southwark.gov.uk; paula.thornton@southwark.gov.uk

Members of the committee are summoned to attend this meeting

Councillor Peter John

Leader of the Council

Date: 27 May 2016



Cabinet

Tuesday 7 June 2016
4.00 pm

Ground Floor Meeting Room GO2A, 160 Tooley Street, London SE1 2QH

Order of Business

Item No.	Title	Page No.
	PART A - OPEN BUSINESS	
	MOBILE PHONES	
	Mobile phones should be turned off or put on silent during the course of the meeting.	
1.	APOLOGIES	
	To receive any apologies for absence.	
2.	NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT	
	In special circumstances, an item of business may be added to an agenda within five clear working days of the meeting.	
3.	NOTICE OF INTENTION TO CONDUCT BUSINESS IN A CLOSED MEETING, AND ANY REPRESENTATIONS RECEIVED	1 - 2
	There are no closed items scheduled for consideration at this meeting. However a closed appendix has been circulated for Item 8, Scrutiny Review of Southwark's Non-residential property.	
4.	DISCLOSURE OF INTERESTS AND DISPENSATIONS	
	Members to declare any interests and dispensations in respect of any item of business to be considered at this meeting.	

Item No.	Title	Page No.
5.	PUBLIC QUESTION TIME (15 MINUTES)	
	To receive any questions from members of the public which have been submitted in advance of the meeting in accordance with the cabinet procedure rules. The deadline for the receipt of public questions is midnight Wednesday 1 June 2016.	
6.	MINUTES	3 - 11
	To approve as a correct record the minutes of the open section of the meeting held on 15 March 2016.	
7.	DEPUTATION REQUESTS	
	To consider any deputation requests. The deadline for the receipt of deputations is midnight Wednesday 1 June 2016.	
8.	SCRUTINY REVIEW OF SOUTHWARK'S NON-RESIDENTIAL PROPERTY	12 - 14
	To consider recommendations from the overview and scrutiny committee and for the relevant cabinet member to report back within eight weeks.	
9.	TIME TO CARE: A FUTURE VISION OF CARE IN SOUTHWARK. A REPORT FROM THE HEALTHY COMMUNITIES SCRUTINY SUB-COMMITTEE	15 - 28
	To consider recommendations from the healthy communities scrutiny sub-committee and for the relevant cabinet member to report back within eight weeks.	
10.	UPDATE ON CHILDREN'S CENTRES PROGRAMME	29 - 37
	To note the progress in implementing a new model of managing the delivery of Children's Centres in Southwark, following changes in national policy and to approve grants to lead agencies for the delivery of the children's centres programmes.	
11.	AYLESBURY ESTATE REGENERATION PHASE 2	38 - 45
	To agree a new approach to agreeing valuations to property with affected homeowners on the Aylesbury Estate from phase 2 onwards.	
12.	DRAFT OLD KENT ROAD AREA ACTION PLAN	46 - 55
	To approve the draft Old Kent Road Area Action Plan and the proposed changes to the adopted policies map for public consultation.	

Item No.	Title	Page No.
13.	COMMUNITY INFRASTRUCTURE LEVY (CIL) PRELIMINARY DRAFT CHARGING SCHEDULE AND DRAFT ADDENDUM TO THE ADOPTED SECTION 106 AND COMMUNITY INFRASTRUCTURE LEVY SUPPLEMENTARY PLANNING DOCUMENT (2015)	56 - 79
	To approve the Community infrastructure levy (CIL) preliminary draft charging schedule and the draft "Regulation 123 List" (the list of infrastructure items which will not be funded by section 106 planning obligations) for public consultation.	
14.	POLICY FOR CONSIDERING INTERVENTION UNDER THE TOWN AND COUNTRY PLANNING ACT 1990 TO ENABLE REDEVELOPMENT TO PROCEED	80 - 90
	To agree to consider using the provisions of s227 of the Town & Country Planning Act 1990 on a case by case basis to enable stalled developments to proceed and to adopt the principles set out in the report to evaluate applications to use the provision of s227 of the Town & Country Planning Act 1990.	
15.	FAIRER FUTURE PROCUREMENT STRATEGY FOR SOUTHWARK COUNCIL	91 - 107
	To approve the Fairer Future Procurement Strategy.	
16.	GATEWAY 1: PROCUREMENT STRATEGY APPROVAL - CONTRACTOR SERVICES FOR THE DELIVERY OF COMMERCIAL WAY NEW HOMES DELIVERY	108 - 120
	To approve the procurement strategy to undertake an OJEU tendering process for one of the new homes delivery phase 2 sites.	
17.	WORKFORCE DATA REPORT	121 - 185
	To note the progress against the council's workforce strategy 2013-16.	
18.	THAMES WATER - REFUND OF OVERPAYMENTS AND FUTURE ARRANGEMENTS	186 - 201
	To agree that the council proceeds with immediate refunds to current tenants, with interest calculated under the provisions of the Water Resale Order 2006 and to instruct the strategic director of housing and modernisation to make the necessary arrangements for refunds to former tenants.	
19.	PROGRESS REPORT ON MY SOUTHWARK HOMEOWNERS AGENCY	202 - 209
	To note the progress made on the creation of the new My Southwark Homeowners Service as agreed by cabinet in December 2015.	

Item No.	Title	Page No.
20.	MOTIONS REFERRED FROM COUNCIL ASSEMBLY 16 MARCH 2016	210 - 213
	To consider motions on the following:	
	<ul style="list-style-type: none"> • Low water pressure in Bermondsey • East Street Market. 	
21.	APPOINTMENTS TO OUTSIDE BODIES 2016/17	214 - 223
	To consider and agree appointments to outside bodies for 2016/17.	
22.	NOMINATIONS TO PANELS, BOARDS AND FORUMS 2016/17	224 - 230
	To agree the allocations of places and nominations to the panels, boards and forums for 2016/17.	

DISCUSSION OF ANY OTHER OPEN ITEMS AS NOTIFIED AT THE START OF THE MEETING

EXCLUSION OF PRESS AND PUBLIC

The following items are included on the closed section of the agenda. The Proper Officer has decided that the papers should not be circulated to the press and public since they reveal confidential or exempt information as specified in paragraphs 1-7, Access to Information Procedure Rules of the Constitution. The specific paragraph is indicated in the case of exempt information.

The following motion should be moved, seconded and approved if the cabinet wishes to exclude the press and public to deal with reports revealing exempt information:

“That the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1-7, Access to Information Procedure Rules of the Constitution.”

PART B - CLOSED BUSINESS

DISCUSSION OF ANY OTHER CLOSED ITEMS AS NOTIFIED AT THE START OF THE MEETING AND ACCEPTED BY THE CHAIR AS URGENT

NOTIFICATION OF CLOSED BUSINESS FOR URGENT CONSIDERATION BY AN EXECUTIVE DECISION MAKING BODY

The required 28 days notice relating to a decision likely to be considered in closed session has not been given on the forward plan in respect of the decision detailed in this document. The matter is considered to be urgent and cannot be reasonably deferred for a further 28 days to enable the required notice to be given. Details of the issue are set out below.

Note: This notice applies to meetings of the cabinet, cabinet committee or community councils considering an executive function.

DECISION MAKER

Name of decision maker: Cabinet

Date of meeting: 7 June 2016

LEAD OFFICER DETAILS

Name and contact details: Shelley Burke, Head of Overview and Scrutiny,
020 7525 7344

DETAILS OF THE REPORT

Title and brief description of the nature of the business to be considered:

Scrutiny Review of Southwark's Non-residential Property – Appendix 1

Description of purpose.

Cabinet to consider a report from the overview and scrutiny committee recommending a new policy which makes available to the public information about the non-residential properties Southwark is renting and leasing out. Only Appendix 1 relating to this report is closed.

- *Why the decision is urgent and cannot be reasonably deferred i.e. Why it cannot wait until a further 28 days or more to enable the required notice to be given?*

The cabinet member is scheduled to report back to cabinet within eight weeks.

What is the potential cost to the council if the decision is delayed?

The report of the overview and scrutiny committee should be considered by cabinet within a reasonable timescale to ensure that the recommendations are responded to within an eight week time period and recommendations are considered and evaluated without delay.

How long has the department known the decision required a closed report?

This item is a non-key decision and it was not originally anticipated that any closed information would be required for this item. The main cabinet report has been circulated as an open report, with Appendix 1 only circulated on the closed agenda.

Everton Roberts
For Proper Constitutional Officer
Dated: 27 May 2016



Cabinet

MINUTES of the OPEN section of the Cabinet held on Tuesday 15 March 2016 at 4.00 pm at Ground Floor Meeting Room GO2A, 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Peter John OBE (Chair)
Councillor Ian Wingfield
Councillor Fiona Colley
Councillor Stephanie Cryan
Councillor Barrie Hargrove
Councillor Richard Livingstone
Councillor Darren Merrill
Councillor Victoria Mills
Councillor Michael Situ
Councillor Mark Williams

1. APOLOGIES

There were none.

2. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

The chair gave notice that supplemental documentation for the following item of business would be considered for reasons of urgency to be specified in the relevant minutes:

- Item 16: Motions Referred from Council Assembly.

3. NOTICE OF INTENTION TO CONDUCT BUSINESS IN A CLOSED MEETING, AND ANY REPRESENTATIONS RECEIVED

No representations were received in respect of the items listed as closed business for the meeting.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. PUBLIC QUESTION TIME (15 MINUTES)

There were none.

6. MINUTES

RESOLVED:

That the open minutes of the meeting held on 9 February 2016 be approved as a correct record and signed by the chair.

7. DEPUTATION REQUESTS

The leader acknowledged receipt of a deputation request from the Aylesbury Leasehold Action Group. As the group were in correspondence with the cabinet member for regeneration and homes on the issues raised, it was advised that this should continue before cabinet considers whether or not to hear their request. The deputation procedure rules provide that when a request has an alternative means of expressing their views through recognised channels that this option should be followed in the first instance.

8. PETITION FROM THE FEMINIST LIBRARY

RESOLVED:

That a petition from the Feminist Library be considered.

Following the presentation, cabinet members offered a six-month extension on the lease of the premises and support in finding a new location within that period.

9. SOUTHWARK COUNCIL AND OLD VIC STAGE BUSINESS PROGRAMME

RESOLVED:

That progress on the delivery of Stage Business, an innovative education project supporting young people in Southwark through culture and the arts, be noted.

10. RESPONSE TO RECOMMENDATIONS OF OVERVIEW AND SCRUTINY COMMITTEE: 'RIGHT TO BUY' FOR HOUSING ASSOCIATION TENANTS AND THE FORCED SALE OF COUNCIL PROPERTIES

RESOLVED:

That the proposed response to the overview and scrutiny committee report on 'Right to buy' for housing association tenants and the forced sale of council properties as set out in the report be agreed.

11. ASSET MANAGEMENT STRATEGY

RESOLVED:

1. That the results of the public consultation of the draft asset management strategy be noted, noting the feedback within Appendices 1-3 of the report.
2. That the asset management strategy within Appendix 5 of the report be approved.
3. That the strategy will be publicised and made widely available as outlined in the communications section of the report (paragraph 36) be approved.
4. That the resources outlined for 2016/17 as outlined in paragraph 59 of the report be approved.
5. That the revised standard which maintains decency and delivers the kitchen and bathroom guarantee alongside cyclical decorations be noted.
6. That it be noted that the asset management strategy sets out a delivery timetable for:
 - a) Maintaining a high level of decency
 - b) Delivering a cyclical works programme
 - c) Completing the kitchen and bathroom programme within the first cycle of the programme
 - d) Delivering a mechanical and electrical programme
 - e) Bringing the building components of all properties to a Fire Risk Assessment (FRA) 'tolerable' level by the end of the first cycle of the programme.
7. That it be noted that there will be an annual update report on the delivery of the strategy and resources will be agreed annually through the financial business plan.

12. DEVELOPMENT VIABILITY SUPPLEMENTARY PLANNING DOCUMENT (SPD)

RESOLVED:

1. That the Development Viability SPD for adoption (Appendix A of the report) be agreed.
2. That the Consultation Report (Appendix B of the report) be noted.
3. That the Equalities Analysis (Appendix C), SEA Screening Assessment and Statement of Reason (Appendix D), Viability SPD Habitat Regulations Assessment (Appendix E) be noted.

13. FIVE YEAR FORWARD VIEW OF HEALTH AND SOCIAL CARE IN SOUTHWARK

RESOLVED:

That the Five Year Forward View of Health and Social Care in Southwark be reviewed and endorsed.

14. WORKFORCE STRATEGY UPDATE**RESOLVED:**

1. That the updates made to the council's workforce strategy be noted.
2. That it be noted that the strategy is being refreshed and will be presented to cabinet in October 2016.

15. EXTENSION OF THE VOLUNTARY REDUNDANCY OFFER**RESOLVED:**

That it be agreed:

1. To extend the provisions of the enhanced voluntary severance scheme for a further six months, up to 30 September 2016.
2. That employees are allowed to apply for voluntary severance until 30 June 2016, with applications considered on a monthly basis by chief officers for final decision by the chief executive. Where an application is agreed the employee must leave on or before 30 September 2016.

That it be noted:

3. That the terms of the amended scheme will include a clause advising that employees will not be permitted to undertake paid work for the council; including work through an employment agency, as an interim or consultant, or on a temporary or permanent contract, for at least twelve months after their last day of service.
4. That the scheme will also be updated to allow approval of applications for other valid business reasons that relate to an individual employee.

16. MOTIONS REFERRED FROM COUNCIL ASSEMBLY

The supplemental documentation for this item had not been circulated five clear days in advance because the overview and scrutiny committee meeting which produced the additional recommendation was held on 10 March 2016.

RESOLVED:**ENVIRONMENT, PUBLIC REALM AND REGENERATION**

That the motion referred from council assembly as a recommendation to cabinet, set out below, be noted:

Regeneration

1. That council assembly recognises that Southwark is one of the most exciting boroughs in the country in terms of regeneration, with significant investment in the

borough delivering new affordable homes, jobs and community benefits.

2. That council assembly commends this administration's approach to regeneration, which has secured the second highest level of affordable house-building in the country, with 3,760 new affordable homes built in Southwark between 2010-11 and 2014-15.
3. That council assembly welcomes this administration's commitment to ensuring regeneration benefits local people by delivering affordable homes to rent and for low cost home ownership, building new community facilities and creating jobs and opportunities for Southwark residents.
4. That council assembly notes that Southwark also has the most ambitious council house building programme in the country - 11,000 new council homes built by 2043, with the first 1,500 by 2018, with every one of the new homes available to Southwark residents at council rents.
5. That council assembly calls on other London boroughs to play their part in solving London's housing crisis by following Southwark's lead and building new affordable homes.
6. That council assembly condemns the previous Liberal Democrat and Conservative Coalition government's cut to the affordable housing grant, which has made it more difficult for local authorities to build new council homes.
7. That council assembly also condemns the government's proposals to limit new affordable housing and to force the sell off of council homes through the Housing and Planning Bill, which will significantly reduce council housing in Southwark, damage our ability to build much needed new homes and lead to an increase in homelessness and overcrowding.
8. That council assembly calls on the cabinet to:
 - Work with partners across the borough to increase local employment in construction so that Southwark residents are able to take advantage of opportunities from regeneration programmes.
 - Lobby the government to reconsider it's disastrous proposals on the forced sale of council homes.
 - Lobby the government for an exemption for local authorities on council house building programmes from 'starter home' quotas, which will be unaffordable for the majority of Southwark residents, to ensure new homes in the borough are genuinely affordable to households on lower incomes.

Environment and public realm

9. That council assembly recognises the importance of ensuring development in our borough is sustainable and welcomes this administration's commitment to the environment, including:
 - Reducing the amount of waste sent to landfill to less than 1%, with Southwark now the best recycling borough in inner city London.
 - Committing to run entirely on green energy by 2050.

- Delivering a new energy hub that will deliver zero-carbon, affordable heat and hot water to residents and businesses across Elephant Park.
10. That council assembly recognises that poor air quality is a significant problem for Southwark and that 28,800 children in our borough breathe poor air and approximately 110 people die in Southwark prematurely every year from poor air quality. Council assembly therefore calls on Transport for London (TfL) to take action on air quality and to extend the ultra low emissions zone to cover the whole borough and the rest of inner London.
 11. That council assembly reaffirms the council's formal objection to TfL's plans for the new Silvertown Tunnel due to the negative impact increased congestion will have on air pollution levels in Southwark, particularly on approaches to the Rotherhithe tunnel, and calls on TfL to address the council's concerns and recommendations in its proposals.
 12. That council assembly welcomes this administration's commitment to sustainable transport, to promote active journeys, minimise the environmental impact of transport and improve the public realm to make the borough a safer, cleaner and healthier place to live and work.
 13. That council assembly welcomes the 2.7 miles of quietways that have already been introduced in the borough and the commitment to deliver 21.26 more miles, as well as the introduction of the Southwark Spine, which will improve cycling in the borough and help increase the number of people choosing to cycle.
 14. That council assembly welcomes the steps being taken to improve the public realm, including at Canada Water, Peckham and the Aylesbury, to clean up the borough's high streets, such as Rye Lane and Walworth Road, and to invest in the social infrastructure of our borough, including new libraries, a new leisure centre and new parks, such as the new Camberwell library, the new Castle leisure centre and a £6m investment in 6 parks around Elephant and Castle.

TRANSPORT IN ROTHERHITHE

That the motion referred from council assembly as a recommendation to cabinet, set out below, be noted:

1. That council assembly recognises that there are significant traffic problems on the Rotherhithe peninsula, with the high demand for river crossings making the Rotherhithe area particularly susceptible to congestion from tunnel related traffic, which is detrimental to the local environment, particularly air quality, and can make local trips difficult.
2. That council assembly further recognises that the significant growth planned in the Canada Water area, including an increase in new homes and job opportunities, will require a significant investment in transport infrastructure.
3. That council assembly therefore calls on Transport for London and the Mayor of London to:
 - Upgrade the existing public transport network, including increasing capacity on

the overground, tube and buses

- Take action to tackle congestion on Jamaica Road
- Enhance pedestrian and cycle links and bring forward plans for a pedestrian and cycling bridge from Rotherhithe to Canary Wharf to alleviate congestion
- Extend the cycle hire scheme to Rotherhithe
- Explore means of integrating river transport into the network to make sure that residents in Rotherhithe get the full benefit from the river as a mode of transport
- Address in a full and proper manner the concerns and recommendations raised by the council in relation to the proposals for the new Silvertown Tunnel, which will impact negatively on the quality of life of a vast number of people who live and work in the borough.

THE POWER TO SET A REAL LIVING WAGE

That the motion referred from council assembly as a recommendation to cabinet, set out below, be noted:

1. That council assembly welcomes the cross-party support for the London Living Wage since the motion agreed by council in November 2008 and the steps taken in Southwark in 2012 to introduce the London Living Wage for all staff, including contractors as well as the council's directly employed staff.
2. That council assembly notes the progress in implementing the London Living Wage policy in Southwark and the proposal for a Living Wage Zone as part of the Canada Water regeneration area.
3. That council assembly welcomes the council's on-going work to support the Living Wage, including:
 - Celebrating employers who are promoting and encouraging the practice of paying the Living Wage to apprentices through our Southwark apprenticeship standards.
 - Working with organisations across London to inform the development of new policy and activities relating to Living Wage through the upcoming Living Wage Symposium.
 - Supporting the creation of a London Living Wage zone at More London.
4. That council assembly further notes that Preston City Council in partnership with 'Unlock Democracy' is considering submitting the following proposal to government under the Sustainable Communities Act:

'To delegate power to local authorities to compel all private and public sector employers within their area to pay the Living Wage. The rate of the Living Wage to be determined in accordance with the rates set by the Living Wage

Foundation for London and outside London.'

5. That council assembly believes that this power could reduce in-work poverty in Southwark and benefit the local economy through a multiplier effect in each local authority area it is introduced.
6. That council assembly further believes that as part of the negotiating process with the relevant Secretary of State, all or some of the benefits to government through increased income tax revenue and reduced welfare spending be used to enforce the new power and help local businesses which may struggle to move to the new rate. The case should also be strongly made for additional resources, so that councils can enforce the Living Wage effectively.
7. That council assembly therefore calls on the cabinet to express its interest in joining Preston City Council in any collective submission to the government under the Sustainable Communities Act, and to work together with the Unlock Democracy campaign to gain support for the proposal from other councils in London and across the country.

BLACKLISTING

That the motion referred from council assembly, set out at paragraphs 1-5 below, and the recommendation from overview and scrutiny committee on 10 March 2016, set out at paragraph 6 below, be noted.

That it be agreed that officers consider the policy implications of the motion and recommendation from the overview and scrutiny committee and bring a report back to cabinet.

1. That council assembly is aware of the destructive practice of blacklisting that occurred for decades in the UK construction industry and the disastrous effects it had on many of the workers that were included on the blacklist.
2. That council assembly notes that most of the workers on the blacklist of The Consulting Association were trade unionists, many of them were blacklisted for raising legitimate health and safety concerns with their employer.
3. That council assembly recognise that because of this administration's commitment to new affordable housing, lots of new homes are being built in Southwark, which is also providing opportunities for local people in construction work. We take the safety of our residents, staff and contractors very seriously and believe strongly that people who raise health and safety concerns should not be blighted for their working life through blacklisting.
4. That council assembly notes that the council already has a process in place for Major Works contracts to identify any companies that have made use of the blacklist in the past to ensure that they have put in place actions to prevent such behaviour recurring and to compensate those victimised by the practice. Council assembly believes that this good practice should be adopted in its other contracts.
5. That this council is determined that blacklisting should never occur again and calls on cabinet to:

- Make provision in Southwark Council's public tendering procedures to exclude blacklisters from public contracts if they are either still blacklisting or have not put into place genuine actions agreed by the blacklisted workers or their representatives concerning past blacklisting activities
 - Make provision in the council's terms and conditions for public works that provide for the termination of the contract if a supplier is found to engage in blacklisting activities during the course of that contract
 - Make provision to include blacklisting and trade union membership in the pre-qualification questionnaire for new construction contracts.
6. That any policy developed to implement the council motion on blacklisting should include provision to examine the actions of parent and subsidiary companies.

17. MINUTES

RESOLVED:

That the closed minutes of the meeting held on 9 February 2016 be approved as a correct record and signed by the chair.

Meeting ended at 5.56 pm.

CHAIR:

DATED:

DEADLINE FOR NOTIFICATION OF CALL-IN UNDER SECTION 21 OF THE OVERVIEW AND SCRUTINY PROCEDURE RULES IS MIDNIGHT, THURSDAY 24 MARCH 2016.

THE ABOVE DECISIONS WILL NOT BE IMPLEMENTABLE UNTIL AFTER THAT DATE. SHOULD A DECISION OF THE CABINET BE CALLED-IN FOR SCRUTINY, THEN THE RELEVANT DECISION WILL BE HELD IN ABEYANCE PENDING THE OUTCOME OF SCRUTINY CONSIDERATION.

Item No. 8.	Classification: Open	Date: 7 June 2016	Meeting Name: Cabinet
Report title:		Scrutiny Review of Southwark's Non-residential Property	
Ward(s) or groups affected:		All	
From:		Overview and Scrutiny Committee	

RECOMMENDATIONS

1. Cabinet is asked to note the below recommendations and report back within eight weeks:
 - a) Cabinet should introduce a new policy which makes available to the public information about the non-residential properties Southwark is renting and leasing out. The register should include the name of the tenant, the annual rent, the amount of any up front premium paid, the date the agreement was signed and the date the agreement is due for renewal. This should be phased in over two years
 - b) Cabinet should instruct officers to introduce a robust documentation management system for all documents relating to the non-residential portfolio
 - c) Cabinet should instruct officers to introduce a robust system for monitoring lease renewal dates and the repair and maintenance of properties
 - d) Cabinet should ask the director of regeneration to carry out a review which should include checking that appropriate process controls are in place throughout the property portfolio
 - e) Cabinet is asked to ensure that the Asset Management Plan includes a framework which allows flexibility for officers to negotiate rents. This should include clarity about deviation from market rents and ensure that checks are put in place where such decisions are made.

BACKGROUND INFORMATION

2. Overview and scrutiny committee reviewed the management of the council's non-residential property portfolio. The committee considered reports from the council's property division and heard evidence from Community Action Southwark (CAS). CAS had carried out research with local voluntary and community sector organisations and gathered their experience and views on the availability of premises. CAS made 3 recommendations to overview and scrutiny committee and the committee have sought to reflect these in their final recommendations above:

"Work on premises has been ongoing for some time. We would like to make three recommendations, which might help to shift forward the discourse on premises across the borough, and how we can improve the operating environment for VCOs:

*1. It would be useful if CAS could be provided with a **comprehensive picture** of the VCS estate in Southwark. This should include what organisations are utilising which buildings and for what purpose, and which organisations are paying peppercorn and which market rents. This could help us to better understand what the VCS premises picture looks like, and how we can better support organisations to effectively utilise, and where possible, share premises. It will also allow us to support organisations with the transition to market rent, where this is planned.*

*2. We would like to see full VCS involvement in the development of any **new council VCS premises strategy**, with extensive consultation. CAS can help to organise this and collate evidence on behalf of the sector. This strategy should be developed with property services, and applied consistently across the VCS (including social enterprises).*

*3. The council should produce a **clear, easy to read, downloadable document** for their website that outlines policies on **rate relief, lease terms** that will apply to VCS, availability of **rent subsidy, rent free periods** and **asset transfer**, and processes required to nominate **community assets** under the Localism Act. This would help to increase knowledge in the sector about the council's approach to VCS premises. It would be very useful to have all this information in one place, as information about the council's policies on VCS premises can be difficult to locate at present."*

3. The council commissioned an independent review of the tenanted non-residential estate to test compliance with current policy and procedures. This was carried out by RSM and was reported to overview and scrutiny committee. Overview and scrutiny committee accepted the findings of the independent review and drew on them to formulate their recommendations to cabinet as detailed above.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Overview and Scrutiny Committee Agendas March 2015-Jan 2016	Scrutiny Team 160 Tooley Street London SE1 2QH	Shelley Burke 020 7525 7344
Link: http://moderngov.southwark.gov.uk/ieListMeetings.aspx?Committeeld=308		

APPENDICES

No.	Title
Appendix 1	Closed appendix – Southwark non-residential property review

AUDIT TRAIL

Lead Officer	Shelley Burke, Head of Overview & Scrutiny	
Report Author	Shelley Burke, Head of Overview & Scrutiny	
Version	Final	
Dated	16 May 2016	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	N/a	N/a
Strategic Director of Finance and Governance	N/a	N/a
Chief Officers	N/a	N/a
Cabinet Member	N/a	N/a
Date final report sent to Constitutional Team	16 May 2016	

Item No. 9.	Classification: Open	Date: 7 June 2016	Meeting Name: Cabinet
Report title:		Time to Care: A Future Vision of Care in Southwark: A Report from the Healthy Communities Scrutiny Committee	
Ward(s) or groups affected:		All	
From:		Overview and Scrutiny Committee	

RECOMMENDATION

1. That the cabinet notes the recommendations of the report and that the relevant cabinet member brings back a report to cabinet within eight weeks, in order to respond to the overview and scrutiny committee.

BACKGROUND INFORMATION

2. Attached is the final report arising from the scrutiny review of care homes, home care, care in the community and the Ethical Care Charter.

HEALTHY COMMUNITIES SCRUTINY SUB-COMMITTEE RECOMMENDATIONS

3. The sub-committee's recommendations for consideration by cabinet are set out within the body of the report attached as Appendix A.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Overview and Scrutiny Committee Agenda 4 April 2016	Scrutiny Team 160 Tooley Street London SE1 2QH	Shelley Burke 020 7525 7344
Link: http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=308&MId=5111&Ver=4		

APPENDICES

No.	Title
Appendix A	Report of the Healthy Communities Scrutiny Sub-Committee

AUDIT TRAIL

Lead Officer	Shelley Burke, Head of Overview & Scrutiny	
Report Author	Shelley Burke, Head of Overview & Scrutiny	
Version	Final	
Dated	16 May 2016	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	N/a	N/a
Strategic Director of Finance and Governance	N/a	N/a
Chief Officers	N/a	N/a
Cabinet Member	N/a	N/a
Date final report sent to Constitutional Team	16 May 2016	

APPENDIX A

Time to Care: A future vision of care in Southwark A report from the Healthy Communities Scrutiny Committee

Overview

The Healthy Communities Scrutiny Sub-Committee undertook to look at the provision of care in Southwark. This issue was escalated as a result of announcements locally about care home provision in Southwark, and in the wider context of national debate about care homes.

This report provides an overview of the work carried out by the Committee and recommendations for the way in which we approach care in Southwark.

The Committee would like to thank all those who submitted written evidence and presented oral evidence to the Committee as part of this inquiry.

This report has focused on care homes, home care, care in the community and the Ethical Care Charter. We have made a number of recommendations which look to ensure that we can continue to provide high levels of care to our residents, as well as supporting their families.

Our recommendations are as follows:

1. We recommend that HC One and the Council update the Committee on the relocation of the residents of Camberwell Green Care Home, especially in relation to the relocation to Tower Bridge and share with the committee any subsequent CQC inspection outcomes
2. The Committee believes that there needs to be a clear component of any future contract with the Council which clearly sets out training and development plans for staff. The focus on e-learning should be reduced, and there should be clear KPIs for organisations to achieve to ensure staff are supported.
3. The Committee recommends that the Council makes serious consideration of establishing our own Council-owned Care Homes. We believe that with the resource that the Council is currently having to put into our care homes, and the broader crisis in care homes and concerns over the viability of providers in the long-term, that having Council-owned services would allow the Council to retain control and implement a service in such a way as to provide excellence of care for our residents.
4. We would like to see more rigorous monitoring of the situation related to non-payment of London Living Wage for Home Care workers and a commitment to paying the London Living Wage within the new home care contracts when they are retendered in 2016.
5. The Committee recommends that the provision of zero-hour contracts, and bulk hour contracts should be carefully evaluated as part of the re-tendering process for home care in Southwark.
6. We would recommend that home care provider staff are provided with information about Southwark in regards to road maps, busy areas within the Borough, and approximate journey times to better help plan where workers should be sent for jobs.

7. The Committee recommends that as part of the re-tendering process, there should be stipulation that allows for trade union representatives to meet with staff and for them to be recognised within any contracted services.
8. The Committee believes that there are further areas for improvement and recommends that the Council look to develop an Ethical Care Charter II.
9. The Committee further recommends that issues around TU rights, joined-up services and training & development form a key part of the re-tendering process for the procurement of home care services in Southwark.
10. We would recommend that when a complaint is made in home care services, that the complainant is given a named Council officer, where possible, to lead the handling of the complaint, to help ensure continuity throughout the process.
11. The Committee would like to congratulate the team at Age UK for their lay inspection of home care services in Southwark and would recommend that funding is continued for this programme in financial year 2016/17.
12. We understand that recruitment of new volunteers for the Lay Inspectors Scheme is in decline, and would recommend that the Council assist with the promotion of the Scheme.
13. The Committee recommends that the care homes should create a partnership with Southwark Carers to ensure that they receive all necessary support and their services are flagged appropriately to family members.
14. We recommend that care homes provide comprehensive information to residents and their families about the community services that are available to local residents. This may involve care homes working more closely with community organisations to understand what services are on offer, and identifying opportunities for them to showcase their services to care home residents.
15. We recommend that any individual or organisation who raises a safeguarding alert with the Council should receive a case number so they can follow up if they do not feel the issue has been addressed, and should receive a full response about any action taken, taking into account data protection issues.
16. We further recommend that care homes clearly display information about the Safeguarding Board and highlight this information to families and carers for those in their care homes, as an independent avenue for raising issues and concerns.

Committee and witnesses

The Committee would like to thank all of those who made this report possible.

Councillor Rebecca Lury, Chair, Healthy Communities Committee

Councillor David Noakes, Vice-Chair, Health Communities Committee

Councillor Jasmine Ali, Member of the Healthy Communities Committee

Councillor Paul Fleming, Member of the Healthy Communities Committee

Councillor Lucas Green, Member of the Healthy Communities Committee

Councillor Maria Linforth-Hall, Member of the Healthy Communities Committee

Councillor Bill Williams, Member of the Healthy Communities Committee

Witnesses:

Councillor Stephanie Cryan, Cabinet Member for Adult Care and Financial Inclusion

Andrew Loxton, Commissioning Manager

Rochelle Jamieson, Quality and Performance Manager

Gwen Kennedy, Director of Quality and Safety, Southwark NHS Clinical Commissioning Group

Kate Moriarty-Baker, Head of Continuing Care and Safeguarding, Southwark Clinical Commissioning group

Jacky Bourke-White, Chief Officer, **Joan Thomas**, lead Home Care Lay Inspection project, **Miranda Okon** care worker representative, all of Age UK Lewisham & Southwark

Tom White, Volunteer Lay Inspector

Helen Wells, Inspection Manager for Southwark, Care Quality Commission (CQC),

Liz Whyte, Managing Director, **Mr John Ransford**, non-executive Director, both of HC-One

Mike O'Reilly, Risk Management Director, Four Seasons

Alex Evans, Director & **Cindy Glover**, facilitator for older people's groups, both of Time & Talents

David Stock, Chief Executive, Southwark Disablement Association

Clive Smith, Area Representative, GMB.

Verinder Mander, Chief Executive, Southwark Carers

Sue Plain, UNISON, with three care workers

Catherine Negus, Healthwatch

Peter Doye

Providing care homes for the future
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To help our understanding of the situation in Southwark, the CQC presented to the Committee an overview of the four care homes in Southwark, two were rated as Inadequate, one as Requiring Improvement and contrasted this with an example of an Outstanding care home in Southwark. The Lay Inspectors also commented on the care homes We thought this would be useful to summarise below as it clearly demonstrates the problem that is being faced in some of Southwark's care homes

Southwark Care Homes rated as Inadequate or Requiring Improvement (provided by HC One & Four Seasons)	Southwark Care Home rated as Outstanding (provided by Anchor)
<ul style="list-style-type: none"> • People did not receive medicines safely • Standards of cleanliness were not maintained • People were at risk of infection • Staff were not always supported effectively • People who lacked capacity were not supported to have their needs and choices met • People were not supported to have food and drink in a timely manner • The management team needed strengthening and there was a high turnover • Systems to monitor quality were in place, but not used effectively 	<ul style="list-style-type: none"> • People were treated with kindness, respect and compassion • Staff knew people well • People were involved in discussions about their care, including end of life care • Staff were motivated and supported • Open culture – people and staff could raise concerns • Sustained good leadership by the care home manager • Staff retention

This all falls against a backdrop of the ongoing 'care homes crisis' in the United Kingdom more broadly and stories continue to abound in the media about abuses in the system. As Paul Burstow says in his foreword to the Demos Commission on Residential Care, *'the brand of residential care is fatally damaged...linked in the public mind to a loss of independence, residential care is seen as a place of last resort.'*

In October 2015 it was announced that Camberwell Green Care Home, currently operated by HC One would be closing. At the time of the announcement of closure, there were 35 residents within the home (Camberwell Green had 3 residents with a NHS fully-funded place and 32 receiving NHS Funded Nursing Care (FNC), which is a NHS-funded nursing care contribution of £112 per week paid to residents in nursing beds The care home has committed to staying open until all the current residents have been re-located.

This announcement came at a time when Southwark's Care Homes are already under a great deal of pressure. Both Tower Bridge Road and Burgess Park are in special measures as they have been rated as Inadequate and Southwark Council has an embargo on both homes.

Both Burgess Park and Tower Bridge Care Homes are not at capacity, but whilst both continue to have significant challenges, from our evidence session, the Committee understood that they were not in a position to provide the extra support to re-home Camberwell Green residents.

Camberwell Green had its own issues, with a building that is not fit for purpose, and significant challenges with staff retention. Whilst a new manager and support staff were recruited, the home did not see the improvements needed, and this has resulted in its closure.

The Committee is concerned by the closure of Camberwell Green Care Home and is particularly concerned that residents were re-homed to Tower Bridge despite its Inadequate rating.

We recommend that HC One and the Council update the Committee on the relocation of the residents of Camberwell Green Care Home, especially in relation to the relocation to Tower Bridge and share with the committee any subsequent CQC inspection outcomes

At present, there are a large number of external organisations and services who are having to support the work of our care homes. This includes the CCG, Council and CQC. Between them, they are providing nursing and GP services in our care homes, as well as supporting staff training programmes, as well as supporting the placement of new residential managers. There is also the crucial role played by the lay inspectors, who are currently funded by Southwark Council. The Committee is very supportive of the role that they play in providing an independent scrutiny on our care homes, and would hope that the Council continue to fund the programme going forward.

The Committee however is concerned about this extra resource that is having to be put into our care homes to try and support private companies who are being paid to provide the care homes service in Southwark.

At the same time, we are concerned that these care homes keep coming up time and time again, and it appears that there is a more institutional problem with the service. Staff turnover remains high and the Council is having to support the introduction of new Managers to the homes.

The Committee is not convinced by the idea that Southwark's Care Homes are just an anomaly, and that for reasons that cannot be explained, the majority of homes that are in special measures are concentrated in Southwark.

We understand that staff all have their own training plans, which are reviewed on a regular basis. Training appears to be largely provided through e-learning and some observational studies. We understand that the work is highly skilled and high pressured, and this means that there is a large turnover in the sector. This has been helped by the introduction of the Ethical Care Charter which has guaranteed working conditions and wages for Care Workers, but more needs to be done.

The Committee believes that there needs to be a clear component of any future contract with the Council which clearly sets out training and development plans for staff. The focus on e-learning should be reduced, and there should be clear KPIs for organisations to achieve to ensure staff are supported.

We understand that the Council is in the process of developing a 10-year strategy for our care homes which will be published in Spring 2016. The Committee welcomes this focus on a long-term strategy for the provision of care in the Borough. We hope that this report goes some way to helping frame some of the challenges that local people and organisations are seeing in the care sector.

Currently the council has a long term block contract with Anchor Care homes, who provide residential care only for older people, whereas residents requiring both nursing and residential care are usually using the services of providers HC One and Four Seasons , and here care is paid for via spot purchasing. Residents requiring nursing care are the most vulnerable, with often multiple needs such as dementia & diabetes. We remain extremely concerned by the current provision for Southwark residents receiving nursing care as a component of residential care, and the lack of a guarantee from both HC One and Four Seasons that they will be able to keep open the remaining Care Homes in Southwark. This presents a significant risk to residents, who may ultimately end up having to go out of

the borough, and this in turn will lead to additional pressure on families who have to travel further distances to visit relatives.

The extra support being given to care homes in Southwark is welcome, but we are again concerned about the huge number of external resource that is having to be brought in to support services which continue to remain inadequate.

The Committee believes that there may need to be a much more radical reassessment of the way in which Care Home services are provided in Southwark. We believe that there is merit in assessing whether the Council should be looking to provide its own buildings and Care Home service which is then privately contracted out. This has worked well with the Anchor Homes in Southwark which provide retirement living assisted and independent living opportunities

The Committee recommends that the Council makes serious consideration of establishing our own Council-owned Care Homes. We believe that with the resource that the Council is currently having to put into our care homes, and the broader crisis in care homes and concerns over the viability of providers in the long-term, that having Council-owned services would allow the Council to retain control and implement a service in such a way as to provide excellence of care for our residents.

Giving our care workers the time to care

The current home care service is due to be retendered at the end of 2015, and the Council hopes to have the tendering process up and running by July 2016.

It has come to the attention of the Committee that whilst the Council pays its home care providers enough within contracts to pay staff the London Living Wage, the London Living Wage is not always paid to individual staff. Unison brought to our attention a number of individuals who saw a delay in payments of the London Living Wage and that this has not been backdated to the last financial year. We are particularly concerned by this assertion and understand that the Council is currently looking into this in more detail.

We would like to see more rigorous monitoring of the situation related to non-payment of London Living Wage for Home Care workers and a commitment to paying the London Living Wage within the new home care contracts when they are retendered in 2016.

The Committee is further concerned by issues raised around contractual working hours. Both Unison and GMB raised with the Committee that staff had to sign up to batches of contractual hours, where they were required on occasions to be available for double the amount of hours they were actually paid for. In one example a staff member had to be able to work 40hours, and arrange associated child care, but was only called in to work 20 hours. There was limited flexibility in when these hours could be worked. We are also concerned about the assertion that staff are being asked to work multiple consecutive weekends, or up to 14 days without a day off, and that cultural and religious needs were not sufficiently taken into account – for example the importance of Sunday church

Our home care workers are doing a fantastic job, and the Committee would like to wholeheartedly thank them for all of the work that they do in the Borough. We want to ensure that they are receiving fair pay, and fair working conditions for the services that they provide.

The Committee recommends that the provision of zero-hour contracts, and bulk hour contracts should be carefully evaluated as part of the re-tendering process for home care in Southwark.

The Committee also heard from Unison about the distribution of jobs that were allocated to staff. We understand that in some cases, staff are being asked to travel up to an hour between jobs. We believe that with a better understanding of the geography of the Borough that office staff may be better able to allocate jobs.

We would recommend that home care provider staff are provided with information about Southwark in regards to road maps, busy areas within the Borough, and approximate journey times to better help plan where workers should be sent for jobs.

We are further concerned about the availability of trade union representation within home care providers. Both Unison and GMB raised with the Committee that they had difficulty in accessing staff, in some cases, with unions being de-recognised. Added to this, we understand that staff are not always paid for staff meetings, so there is little opportunity for them to come together to discuss any issues that they might have.

With the continued cuts to local government, and the government's plans to introduce the National Living Wage, there will be a dichotomy between the local authority being able to find the money to be able to pay providers enough money for this to be passed onto staff. We therefore believe there is a

critical role for Trade Unions, to ensure that the rights of the workers are protected in these difficult times.

The Committee recommends that as part of the re-tendering process, there should be stipulation that allows for trade union representatives to meet with staff and for them to be recognised within any contracted services.

Progress of the Ethical Care Charter

Southwark Council was one of the first Councils (along with Islington) to sign up the Ethical Care Charter in December 2013.

The Committee wants to commend the Council on progress to date in adopting the Ethical Care Charter. We welcome the progress made to ensure that this is adhered to in our contracts with care homes providers, but would like to see that the Ethical Care Charter is appropriately followed in the home care sector.

The Committee welcomes the successful implementation of the Ethical Care Charter in the Care Home sector. We believe that enough time has now passed for us to be reviewing what has been achieved so far, and the areas where there needs to be further work. **The Committee believes that there are further areas for improvement and recommends that the Council look to develop an Ethical Care Charter II.**

The Committee therefore recommends that the following areas might form the main tenets of a new Ethical Care Charter.

1. **Trade Union rights:** The Council should ensure that contractors place the 'voice of the staff' at the centre of their ways of working, ensuring that there is Trade Union recognition and involvement with each organisation.
2. **Joined-up services:** KPIs should be introduced to contracts such that they encourage a joined-up approach to project delivery. We would like to see all relevant services providers brought together in discussions about service user care needs. This should include the CCG, local authority and social workers.
3. **Training and development:** KPIs should be introduced in contracts to ensure the delivery of quality training for staff involved in the delivery of care services.

The Committee further recommends that issues around TU rights, joined-up services and training & development form a key part of the re-tendering process for the procurement of home care services in Southwark.

Ensuring support for home care

Southwark Council currently commissions 520,000 hours of home care every year through contracts with MiHomeCare and London Care. They support 1250 users, with a further 420 users supporting through personal budgets, and 50 using them as spot providers.

Age UK currently runs a 2 day a week programme of lay inspection of Southwark's home care services. This service is currently funded by Southwark Council and the current contract is due to expire in April 2016.

The programme mirrors the lay inspection programme in Southwark Care Homes and uses the same criteria as the CQC uses to assess care homes.

The CQC approach has been one of phone calls and questionnaires without any face-to-face contact, and we believe that this sets the Age UK programme apart. During its work so far, the programme is identifying the issues and trends in the home care sector. The five key findings so far as:

- The need for regular carers and adequate handovers when carers do change to ensure continuity
- The welcome empathy that home care workers have for those that they are caring for, and the huge respect that they receive from those they are caring for
- The need for a bespoke service, focused around the individual
- The importance of social interaction, to make the person receiving care feel like a member of society
- A need for sensitivity around the cultural needs of the individual being cared for. This covers all ethnic groups.

The lay inspection programme provides a vital opportunity for service users, their families and home care workers to raise any concerns that they might have.

The lay inspection team have found that they regularly receive feedback, but that when they pass on complaints to the Council that these issues often take a long time to get fixed. The process itself is seen as very slow, although this is not necessarily due to any one specific part of the complaints process. One of the specific criticisms of the Council's complaints process is the constant changing of staff who deal with a specific complaint. This often leads to information having to be repeated on numerous occasions, and can lead to confusion.

We would recommend that when a complaint is made in home care services, that the complainant is given a named Council officer, where possible, to lead the handling of the complaint, to help ensure continuity throughout the process.

The Committee would like to congratulate the team at Age UK for their lay inspection of home care services in Southwark and would recommend that funding is continued for this programme in financial year 2016/17.

We understand that recruitment of new volunteers for the Lay Inspectors Scheme is in decline, and would recommend that the Council assist with the promotion of the Scheme.

The Committee commends the work of the large number of unpaid carers in Southwark, who dedicate large amounts of their time to caring for relatives. In most cases, external services are also commissioned for individuals by their families, who provide more structured care and support services.

We believe that the voices of the family however should not be forgotten and organisations such as Southwark Carers and Carers UK provide a vital service in ensuring family members are not forgotten.

However, we are concerned that support services for carers may be lacking in regards to end of life care. In many situations, the referral of the carer for support happens too late in the process, when large and often life-changing decisions have already been made.

The Committee recommends that the care homes should create a partnership with Southwark Carers to ensure that they receive all necessary support and their services are flagged appropriately to family members.

Supporting care in our community

The Council believes that residential care is not the only solution to providing services to residents who need extra support.

We believe that community links are incredibly important and can help people to live longer, and more fulfilling lives. As we heard through our discussions at the Committee, there are countless examples of individuals going into care homes, where their care quickly deteriorates. In many cases, those individuals had been part of community activities before entering the home and this link to the community was not maintained once they entered the home.

The Committee places a huge amount of importance on the role that voluntary organisations can play in supporting people to feel part of their community. We believe that this lack of continuity of maintaining community links has a detrimental effect on residents who have entered care homes, and there needs to be more done to ensure that they can access these services.

We recommend that care homes provide comprehensive information to residents and their families about the community services that are available to local residents. This may involve care homes working more closely with community organisations to understand what services are on offer, and identifying opportunities for them to showcase their services to care home residents.

We also recognise the importance role that voluntary and external organisations play in identifying issues and raising concerns that they may have about the care of individuals. We heard from participants at our roundtable, that when the voluntary sector raises issues to social workers and/or the Council, there is often no feedback as to any action that has been taken as a result.

We recommend that any individual or organisation who raises a safeguarding alert with the Council should receive a case number so they can follow up if they do not feel the issue has been addressed, and should receive a full response about any action taken, taking into account data protection issues.

We further recommend that care homes clearly display information about the Safeguarding Board and highlight this information to families and carers for those in their care homes, as an independent avenue for raising issues and concerns.

Item No. 10.	Classification: Open	Date: 7 June 2015	Meeting Name: Cabinet
Report title:		Update on Children's Centres Programme	
Ward(s) or groups affected:		All wards	
From:		Councillor Victoria Mills, Children and Schools	

FOREWORD – COUNCILLOR VICTORIA MILLS, CABINET MEMBER FOR CHILDREN AND SCHOOLS

Southwark Council has a strong commitment to giving children the best start in life and our Children's Centres programme is a central part of delivering this. Changes are being made to the way the programme is being managed to ensure that there is a consistent service that focuses resources where they are most needed – on direct work with children and families, accessible through a range of Children's Centres and other community facilities across the borough.

RECOMMENDATIONS

1. That the Cabinet notes the progress in implementing a new model of managing the delivery of children's centres in Southwark following changes in national policy.
2. That the Cabinet approves grants to lead agencies for the delivery of the children's centres programme in line with this model as set out in paragraph 32 of this report.

BACKGROUND INFORMATION

3. Children's centres are places where families with children under five can access a range of services and information and get help and advice from health, education and social care professionals. Their core purpose is to improve outcomes for young children and their families and reduce inequalities between families in greatest need and their peers in child development, school readiness, health and life chances.
4. Southwark has had 16 separate children's centres, all of them managed by schools with the exception of one voluntary sector led centre (1st Place). Southwark has also commissioned services for part of the borough from a Lambeth-based voluntary sector centre (Coin Street).
5. A process of reviewing and reshaping Children's Centre delivery in Southwark has been underway since the publication of a revised Ofsted Framework for Inspection of children's centres (last updated in 2014) and a shift in national policy for children's centres from providing predominantly universal services to delivering more targeted interventions alongside services for all. There were also local concerns about inconsistency, variable quality and duplication of services across children's centres delivered in different ways by 17 different providers.
6. Detailed consultation with children's centres and stakeholders during 2014-15 (summarised in paragraph 31) resulted in broad agreement to reorganise the management of Southwark's Centres into four groups aligned with the localities used by the Early Help service. During 2015-16 this model was developed further, with a process to identify lead agencies for each locality and planning of a new staffing structure. The new Children's Centre management model is being implemented during Quarter One (1 April 2016 – 30 June 2016).

KEY ISSUES FOR CONSIDERATION

Benefits of new model

7. The new model is based on a hub and spoke arrangement with one lead body per locality co-ordinating staff and services across the reach area. This approach focuses on delivering universal and targeted services where they are needed in the community, using spaces that are accessible to children and families. In each locality there will be one overall management board, one lead manager and a single staff team, in place of the range of different arrangements in place previously.
8. These changes to current practice, along with improved integration with Early Help, will mean Southwark can offer children and families services that will improve outcomes at the earliest point, underpinned by clear local arrangements for collaboration between professionals and agencies in line with the requirements of 'Working Together to Safeguard Children' (2013). Benefits of the new model are expected to include:
 - Children and families accessing the children's centre services they need in their local area;
 - A programme of universal and targeted services developed using local needs assessment data;
 - Staff teams having consistent job descriptions, induction, training and supervision resulting in high quality practice;
 - Early Help and children's centre teams working in a totally integrated way sharing good practice as well as developing common understandings and approaches to working with families;
 - Stronger collaborative partnerships;
 - Economies of scale and wider strategic planning resulting in better value for money and an increase in frontline provision.

Selecting lead agencies

9. All current children's centres in Southwark were invited to express an interest in becoming the lead agency for their locality. Those that did so were invited to develop a proposal and to present this to a panel chaired by the Director of Education.
10. Following this process, lead agencies for each locality have been identified as follows:
 - Borough, Bankside and Walworth: 1st Place Children & Parents Centre in partnership with Coin Street Community Builders.
 - Bermondsey and Rotherhithe: Kintore Way Children's Centre in partnership with Pilgrims Way Primary School & Children's Centre.
 - Camberwell and Dulwich: Dulwich Wood Children's Centre.
 - Peckham and Nunhead & Peckham Rye: Ivydale Primary School & Children's Centre.
11. Lead agencies will be accountable for meeting the terms of a service level agreement specifying Children's Centre requirements. As part of this they each have a responsibility to establish a locality Strategic Development Board with multi-agency and stakeholder membership to help guide and drive cross sector planning, service development and collaborative partnerships.

Maintaining existing service delivery across Southwark

12. At the start of the remodelling process there were 16 separate designated children's centres in Southwark. In the new model there are four groups of Centres each led by one agency. However, the locality Children's Centre programme and related early years services will continue to be delivered from the following buildings in Southwark that include all of the

original 16 children's centres and other facilities as follows:

Bermondsey and Rotherhithe locality

- Children's Centre at Pilgrims Way Primary School
- Kintore Way Children's Centre
- South Bermondsey Children's Centre
- Southwark Park Playroom (previously designated as part of Rotherhithe Children's Centre)
- Rotherhithe Primary School (continuing to deliver under-3s early education and childcare places)

Borough & Bankside and Walworth locality

- 1st Place Children and Parents Centre
- Bishops House Children's Centre
- Coin Street Children's Centre
- Children's Centre at Victory Primary School

Camberwell and Dulwich locality

- Children's Centre at Crawford Primary School
- Dulwich Wood Children's Centre
- Grove Children and Families Centre
- East Dulwich Estate/Albrighton Centre (previously designated as part of South Camberwell Children's Centre)
- Bessemer Grange (Children's Centre facility now prioritised for provision of two year old places)

Peckham and Nunhead & Peckham Rye

- Children's Centre at Ivydale Primary School
- Children's Centre at Rye Oak Primary School
- Children's Centre at Ann Bernadt Nursery School
- Peckham Rye playroom (managed by Ivydale)
- Leyton Square playroom (previously designated as part of East Peckham Children's Centre)
- Nell Gwynn Nursery School (which will continue to deliver early education places for two to four year olds)

13. In addition services will be delivered through libraries, health centres and other community venues.
14. All buildings funded by the Government's Sure Start Children's Centre capital programme remain in use for children's centres and related early years purposes, thus avoiding risk of Department for Education seeking to claw back funding - which it can choose to do if funded buildings cease to be used for intended function.

Services

15. All services are being planned and developed with a view to improving accessibility, meeting local needs, employing evidence based practice and ensuring multi-agency collaboration.
16. Services will be planned and targeted within each locality according to local need but will all feature:

- High quality play sessions and interventions;
 - Outcomes focused casework using the Family Star Plus assessment and support planning tool;
 - Joint delivery with EH teams of evidence based parenting programmes;
 - A full range of health services to meet families needs, including specialist interventions;
 - Access to employment support including education and training courses;
 - Opportunities for people to gain accredited qualifications through volunteering, apprenticeships and student placements;
 - Targeted groups that meet specific local needs within each community;
 - Support for childminders and PVI early years settings.
17. All services will be reviewed quarterly to ensure targets are met, outputs and outcomes are improved and there is a focus on continuous development.

Policy implications

18. The Childcare Act 2006 (“the Act”) places a range of duties on local authorities in relation to the provision of early childhood services (which includes early years provision and health and social services for young children, parents and prospective parents, together with and employment and other advice for parents and prospective parents).
19. The council is under a general duty to improve the well-being of young children in their area and reduce inequalities between them, in relation to matters such as physical and mental health and emotional well-being; protection from harm and neglect; education, training and recreation; the contribution made by them to society; and social and economic well-being.
20. Specifically, the council is required
- to secure that early childhood services in their area are provided in an integrated manner in order to facilitate access and maximise the benefits of those services to young children and their parents; and
 - to take steps to identify prospective users of services and encourage their take up;
 - to facilitate as far as possible the participation of parents and providers of services in the planning of early childhood services.
21. The arrangements for the provision of early childhood services must, so far as is reasonably practicable, include arrangements for sufficient provision of children's centres to meet local need. Where children’s centres are provided, the council and partner organisations must consider whether to provide early childhood services through children’s centres.
22. A children’s centre is defined in the Act as a place or a group of places through which integrated early childhood services are made available for young children, parents and prospective parents, including:
- early years provision (early education and childcare);
 - children’s social care;
 - health services;
 - training and employment services
 - information and advice services
23. Other requirement son the council, in relation to the organisation and management of children’s centres, includes ensuring:
- - that there are sufficient children’s centres, so far as reasonably practicable, to meet local need;
 - each children’s centre is within the remit of an advisory board;

- that there is consultation before any significant changes are made to children's centre provision in their area.
24. 'Sure Start children's centres statutory guidance' (DfE, 2013) defines 'the core purpose of children's centres' as being 'to improve outcomes for young children and their families and reduce inequalities between families in greatest need and their peers in:
- child development and school readiness;
 - parenting aspirations and parenting skills; and
 - child and family health and life chances'.
25. The Government announced in July 2015 its intention to consult on the future of children's centres. The Minister responsible, Sam Gyimah MP (Parliamentary Under Secretary of State at the Department for Education), has indicated that children's centres will remain but with a further shift in emphasis away from 'bricks and mortar' and separate centres towards local networks of services. The Southwark approach is consistent with that taken by many other Local Authorities and with this emerging national direction of travel.

Community impact statement

26. Equality analysis carried out at the time of the consultation indicated that the potential impact of changes to children's centres would affect the following groups in particular:
- Children under the age of five;
 - Parents of young children, in particular women who make up the highest proportion of parents using Children's Centre services.
 - The communities amongst whom young children are concentrated. Amongst children under five in Southwark the three largest ethnic groups are White British (22% of children), Nigerian (12%) and Black Caribbean (8%).
27. However it was further determined that the proposed changes were focused on re-organisation of the management of children's centres and not expected to impact negatively on front line services for the community. Indeed the reduction in management costs should enable an increase in capacity to work with disadvantaged families.
28. The main impact of the changes has been on staff employed across the children's centres. An equality analysis was undertaken to identify and mitigate against any potential adverse impact of the reorganisation on groups of staff .

Resource implications: Budget and financial issues

29. The existing budget for 16 children's centres has been reallocated to four localities, incorporating a saving of £92,000 to reflect the ending of a number of ex-Sure Start projects.
30. A funding formula has been agreed based on the IDACI scale which measures deprivation for children based on a range of economic, housing and social issues and then ranks them in order of need. The funding for children is then weighted using this scale so that areas with the greatest need attract proportionally appropriate budgets. This formula is in line with that used for school funding allocations and was agreed at a meeting with all existing Children's Centre providers as a fair method of apportioning resources.

31. The budget has been allocated across four localities as follows:

Locality	Number of children under 5	Amount (based on numbers of children weighted by IDACI)
Borough and Bankside & Walworth	4500	£560,260
Peckham and Nunhead & Peckham Rye	5735	£705,745
Camberwell and Dulwich	5815	£624,386
Bermondsey and Rotherhithe	4230	£559,606
<i>Southwark total</i>	<i>20280</i>	<i>£2,449,997</i>

32. It is proposed to allocate these budgets to the lead agencies as an annual grant for 2016-17 as follows:

- 1st Place Children and Parents Centre: £441,258 (representing 79% of budget for Borough, Bankside and Walworth area in line with proportion of area managed by 1st Place);
- Coin Street Trust: £119,002 (representing 21% of budget for Borough, Bankside and Walworth area in line with proportion of area managed by Coin Street);
- Pilgrims Way Primary School: £559,606 (for Bermondsey and Rotherhithe locality);
- Dulwich Wood Children's Centre: £624,386 (for Camberwell and Dulwich locality);
- Ivydale Primary School: £705,745 (for Peckham and Nunhead & Peckham Rye locality).

Consultation

33. There has been extensive consultation on the development of the new Children's Centre model, and with staff affected by it. Key milestones have included the following:

- September 2014: consultation on proposed changes to children's centres launched with full day event involving children's centres and partner services.
- December 2014: meeting with Headteachers of schools involved in children's centres programme.
- September 2014 – December 2014: consultation period with circulation of proposals paper to Children's Centre governors, managers, and staff and key partners in health, education, social care and the voluntary sector.
- February 2015: Following consideration of consultation responses, which were generally positive, the Director of Education agreed to proceed with plan to move children's centres programme towards model of a group of Centres for each locality, managed and co-ordinated by one lead agency per locality.
- March – August 2015: current children's centres invited to express an interest in undertaking lead role for their locality, and then to present their proposal to panel chaired by Director of Education, which agrees leads for localities in a non-competitive process.
- September 2015: Director of Education meets with headteachers and senior managers of proposed lead agencies.
- October 2015: children's centres direction of travel agreed by Children and Adults Board.
- November 2015: HR processes for re-organisation of staff agreed with affected schools.
- January – April 2016: formal consultation with staff and their trade unions on new locality staffing structure, followed by matching process for new posts.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (CS0364/DB)

34. The allocated Children Centres budget of £2.450m for 2016/17 is sufficient to fund this program within the current year, and a similar level of funding is anticipated to be available in 17/18 and 18/19, subject to annual confirmation of the Council's budget position.

HR Concurrent

35. The changes to the children's centre structure impacted on council staff employed to work in schools with children's centres attached to them and on staff engaged through agencies and through external providers of services.
36. Constituent trade unions and affected council employees were consulted on the changes to the provision and the impact on their employment in accordance with the agreed reorganisation and redundancy procedure. TUPE was deemed not to apply to transfer any council staff in relation to the Borough, Bankside and Walworth area. In the other areas, there was a change of line management and accountability by virtue of the new structure but no change of employer. 37 council employees were affected.
37. Consultation with staff and unions commenced in January 2016 and included the rationale for the proposals, the proposed structure and job descriptions and selection criteria. All job descriptions were rewritten and evaluated for use across all localities to ensure consistency of standards across the borough. Overall there are reduced levels of management and increased frontline capacity to deliver services. Staff in the new model will have access to a high quality suite of mandatory training as well as having wider teams to be able to learn and develop with; teams are enthusiastic about the development opportunities on offer. Some changes were made to proposals in response to the consultation process.
38. Staff members had the option to express an interest in voluntary redundancy or for consideration for any of the new roles. Of the 37 staff affected:
- 9 requested voluntary redundancy, which was agreed.
 - 25 were offered and accepted suitable alternative employment in the new structure, with the majority being offered their first choice of post and in many cases promotion.
 - 1 is still to be interviewed.
 - 2 have been served notice of compulsory redundancy.
39. The overall cost of redundancy payments made, including pay in lieu of notice where applicable, is £53,110. It was agreed during 2015 by the previous Director of Education that these costs would be met from the school staffing budget EX021 rather than individual school budgets. Reimbursement to schools will therefore be met from the 2016/17 staffing budget.

Director of Law and Democracy

40. The Director of Law and Democracy (acting through the corporate section) notes the content of the report.
41. The report asks cabinet to note the progress in implementing a new model of managing the delivery of children's centres in the borough as set out in the report and to approve specified grants to the lead agencies for that model of delivery.
42. The duties on the council in relation to the provision of early childhood services and the provision of those services through children's centres are outlined in the policy implication's section of the report. The council has a specific duty to secure that early childhood services

in their area are provided in an integrated manner, and these arrangements must, so far as is reasonably practicable, include arrangements for sufficient provision of children's centres to meet local need.

43. In relation to the payment of grants to the specified lead agencies, the council has a subsidiary power to do any thing (which might involve expenditure or not) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The payment of grants, being incidental to the performance of the council's statutory functions in relation to the provision of early childhood services as described above, is therefore considered to be within the council's power.
44. Cabinet is asked to note the implementation of the new model of managing the delivery of children's centres, implementation of which is currently underway. The decision to implement the new model is not specified as reserved to a Cabinet or a particular decision maker, and under the constitution is therefore deemed to be delegated to officers. However it is consistent with the Cabinet's role and functions to consider initiatives to improve the quality, efficiency and effectiveness of the council's services, and to oversee service provision generally. Similarly, the decision Cabinet is asked to make in respect of the award of grants is not expressly reserved to Cabinet by the Constitution, but it is an executive decision that Cabinet is able to take, and is consistent with the Cabinet's role and functions in relation to the strategic management of the council's resources.
45. The report sets out consultation undertaken, in paragraphs 6 and 34 with service providers, service users and staff in relation to the new delivery model.
46. The council is required to consult before making any significant changes to children's centre provision in its area, and paragraph 34 of the report refers to the consultation events that have taken place.
47. It is also noted that the report refers further in paragraph 38 to consultation undertaken with the trade unions and employees in relation to the reorganisation of the staffing structure.
48. The cabinet is reminded of the Public Sector Equality Duty (PSED General Duty) under section 149 of the Equality Act 2010, and when making decisions to have regard to the need to (a) eliminate discrimination, harassment, victimisation or other prohibited conduct, (b) to advance equality of opportunity and (c) foster good relations between persons who share a relevant protected characteristic and those who do not share it. The relevant characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion, religion or belief, sex and sexual orientation, The PSED General Duty also applies to marriage and civil partnership but only in relation to (a). The cabinet is specifically referred to the community impact statement at paragraphs 27 to 29 of the report which sets out the consideration that has been given to equalities issues which should be considered when considering these recommendations.
49. The reorganisation of the organisational staffing for the new model has employment law implications and these have been identified in the Human Resources Concurrent at paragraphs 36 to 40 of the report. That confirms that the delivery of the new model did not involve the transfer of council employees under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and that the reorganisation was managed under the council's reorganisation, redeployment and redundancy policy and procedure and other relevant human resources procedures. This would ensure that the council acted in accordance with employment legislation. As noted above the report summarises, in paragraph 29, the consideration given to the equalities implications of the proposed staffing changes as required under the PSED.

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
None		

APPENDICES

No	Title
None	

AUDIT TRAIL

Cabinet Member	Councillor Victoria Mills, Children and Schools	
Lead Officer	Nina Dohel, Director of Education	
Report Author	Cheryl Rhodes (Children's Centres Consultant) and Neil Gordon-Orr (Early Help Central Strategic Manager)	
Version	Final	
Dated	26 May 2016	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	26 May 2016	

Item No. 11.	Classification: Open	Date: 7 June 2016	Meeting Name: Cabinet
Report title:		Aylesbury Estate Regeneration, Phase 2	
Ward(s) or groups affected:		Faraday	
Cabinet Member:		Councillor Mark Williams, Regeneration and New Homes	

FOREWORD – COUNCILLOR MARK WILLIAMS, CABINET MEMBER FOR REGENERATION AND NEW HOMES

The regeneration of the Aylesbury Estate is a key priority for Southwark Council, replacing the poorly designed and constructed flats with new homes is long overdue. Phase 1 of the Aylesbury is now well underway with the decant of tenants and homeowners nearly finished, detailed planning permission has been granted, and the demolition of the vacant blocks has begun. As work now progresses on Phase 2 it is right that we have taken time to listen and reflect on our approach, learn lessons, and put these into practice. This is none more so important that with regard homeowners, their options, and valuation of their properties. Making sure that there is a fair deal for homeowners is crucial. This report therefore sets out a refined approach to homeowners in Phases 2, 3 and 4 of the Aylesbury regeneration.

RECOMMENDATION

1. That the cabinet agrees a new approach to agreeing valuations of property with affected homeowners on the Aylesbury Estate from Phase 2 onwards to include a non-binding arbitration process, as set out in this report, if requested by the leaseholder or freeholder.

BACKGROUND INFORMATION

2. In 2005, the council first introduced measures which were intended to assist certain homeowners who would be affected by the regeneration of the Heygate Estate. In 2006 the council's rehousing policy was aligned to also benefit the homeowners on the Aylesbury estate.
3. The policy was amended in in 2010 for a number of reasons. In summary, not all of the rehousing routes devised would have been available for affected homeowners and the methodology for evaluating qualification was outdated, unsatisfactory and overly time consuming with the council dictating which property the household would move into. The new rehousing policy was adopted to allow more homeowners affected by regeneration to continue benefitting from affordable and sustainable home ownership in a suitable property of their choice.
4. Subsequent additional policies adopted in 2014 and 2015 have offered further amendments to the policy, firstly introducing a shared equity option, in which qualifying homeowners can use their existing equity towards the purchase of a share in a new home without the need to pay rent on the portion they do not own, and subsequently amending the assessment criteria when homeowners apply for council rehousing assistance.

5. Although, over this period, policies on rehousing assistance have been amended, the council's process for buying out the leasehold and freehold interests in regeneration schemes remains based on the regulations governing Compulsory Purchase compensation, as set out in paragraphs 14 to 17 of this report.
6. Over the 10 years of successful regeneration projects led by the council, not least on Elephant and Castle, Elmington and the Aylesbury estate, hundreds of leasehold and freehold interests have been acquired by agreement with the owners. In accordance with the council's philosophy of regular review and improvement to its policies and practices, the council wishes to review its approach in light of the continuing rising property market in London and the South East.

KEY ISSUES FOR CONSIDERATION

7. A Development Partnership Agreement (DPA) between the council and Notting Hill Housing Trust (NHHT) was signed on 28 April 2014. This partnership will see the development of a further 3500 new homes across the Aylesbury development area, along with a number of community facilities, commercial facilities and a range of parks and open spaces and high quality public realm. As part of the agreement, it is the council's responsibility to provide vacant possession of the development sites ahead of redevelopment.
8. Progress is being made towards achieving vacant possession on site 1b/1c, the First Development Site (FDS), and the council has now delivered vacant possession of Bradenham and three Chartridge blocks (66-76, 77-105 and 106-119). To secure vacant possession, the council made a Compulsory Purchase Order in 2014 and, following a Public Inquiry last year, is awaiting a decision from the Secretary of State, anticipated imminently. There are now just 10 leasehold interests remaining on this site. Six of these are non-resident leaseholders who own property elsewhere. Of the four resident leaseholders, three have applied to move through the Council's rehousing assistance programme.
9. In order to progress the next phase (Phase 2) of the of the Aylesbury regeneration programme, the council is required to provide vacant possession of the following blocks: Brockley House, Foxcote, Padbury, Ravenstone, Wendover, Winslow, Wolverton and 140 Albany Road. This will require the rehousing of all secure tenants and the acquisition of all leasehold and freehold interests on the site. The council activated the rehousing process for secure tenants and homeowners in Phase 2 in July 2014.
10. Upon activation there were 103 leaseholders and one freeholder on Phase 2. In late 2014, the council was also awaiting a decision on valuations from the Upper Tribunal (Lands Chamber), which was likely to impact on valuations for certain properties within the phase. This was received in December 2014, and negotiations over the acquisition of properties in this phase commenced in early 2015, based on the outcome of that decision.
11. Rehousing of residents in Phase 2 is already well underway and 59% of the tenants in

the phase have already been rehoused following activation in July 2014. Progress has been made with the acquisition of leasehold and freehold interests in the phase and, to date, the council has successfully purchased 23% of all leasehold properties. There remain 79 leasehold properties and one freehold property still to be acquired within Phase 2.

Statutory framework

12. The issues surrounding the acquisition of leasehold and freehold properties are controlled by statute.
13. Section 120(1) of the Local Government Act 1972 empowers a local authority to acquire any land by agreement for the purposes of (a) any of its statutory functions or (b) for the benefit, improvement or development of its area. For the purposes of a major regeneration programme where all interests must be acquired to a timetable, it is likely to be necessary for the Council to make a Compulsory Purchase Order (CPO). It is expected that a CPO will be necessary for Aylesbury Phase 2, and it is anticipated that a report will be brought asking Cabinet to consider making a resolution to use CPO powers later in 2016.
14. Acquisitions of all leasehold and freehold interests operate on the basis of the compensation payable on compulsory purchase, even where a CPO has not yet been made. This means that where a property is acquired by agreement, the compensation matches that which would be payable under the CPO compensation code. For individual homeowners, this means that they receive the market value of their property, as well as a home loss payment of 10% of the market value for resident homeowners or a basic loss payment of 7.5% of the market value for non-resident homeowners. In addition to these payments, a further payment known as disturbance will be made, covering reasonable costs incurred by the homeowner as a direct and reasonable consequence of relocation including costs associated with the acquisition of a replacement property. The powers, procedure and compensation code is set out in various Acts of Parliament primarily the Land Compensation Act 1961, Compulsory Purchase Act 1965, Land Compensation Act 1973, Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004, in addition to Government guidance, together known as the Compensation Code.

Acquisition process

15. At the activation of the rehousing process, all homeowners are provided with a guide to the purchase process, setting out the rehousing options that are available to them as homeowners. The first stage in the purchase process is the valuation of the property by a council-appointed surveyor. The surveyor inspects the property to assess the market value, and then writes to the homeowner with an offer setting out the terms on which the property would be bought back. On receipt of the offer, the homeowner will also receive more detailed information on the buy back process, the support they can access and the compensation to be received.
16. As part of that process, the council will pay for homeowners to obtain advice from a chartered surveyor appointed by the homeowner to negotiate on their behalf. Both the

council's surveyor and the surveyor appointed by the homeowner are subject to the same professional rules and guidance on how to value the property. In most cases, therefore, settlement can be reached reasonably quickly.

17. Under the statutory framework for valuation, in the event that both parties are unable to agree compensation prior to a CPO being confirmed, the acquisition would proceed under the CPO with 90% of the compensation as assessed by the Council being payable on taking possession. Either party may then seek to take the valuation case to the Upper Tribunal (Lands Chamber) for determination.
18. The council works very hard to negotiate with homeowners to purchase their properties by agreement and avoid having to exercise its compulsory purchase powers, and with success. Since the commencement of the acquisition programme on the Aylesbury in 2006, over two hundred properties on the Aylesbury estate have already been acquired by agreement. A number of these homeowners were professionally represented with negotiated settlements reached. To date only two Aylesbury homeowners (less than 1% of the properties acquired) have disputed the council's valuation at the Upper Tribunal (Lands Chamber).
19. In accordance with the council's philosophy of regular review and improvement to its policies and practices, and particularly in light of the rising house price market in London and the South East and the challenges it places on homeowners to make a judgment about when and at what level to accept an offer from the council, an amendment to the current arrangements is now being proposed for consideration for Phase 2 onwards, where no CPO has yet been made, in order to avoid placing undue stress on homeowners at this time.

Revised approach

20. The council is proposing that, for purchases on the Aylesbury estate from Phase 2 onwards, where negotiations between the council's surveyor and the homeowner's appointed surveyor have reached an impasse and agreement on value is unlikely to be reached by the two parties, the homeowner can request a non-binding arbitration process to be entered into between the parties at the council's cost.
21. This process would involve both parties agreeing an independent, RICS-registered, chartered surveyor to act as an independent expert in the matter. The independent chartered surveyor would undertake their own assessment of the value of the property and circulate this to both parties, following which a meeting would take place with all parties to make representations allow the independent expert to reach a determination on their assessment of the value of the property.
22. The valuation provided by the independent chartered surveyor will be non-binding on either party, and would not preclude the homeowner from subsequently taking their valuation dispute to the Upper Tribunal (Lands Chamber).
23. In proposing this amendment to the current policy, although there will be a financial impact to the council through the payment of additional costs for the services of the mediator, in the long term it is hoped that this will assist the council to repurchase

more properties by agreement. This in turn may help to avoid the necessity of implementing a CPO to secure the vacant possession of any property, together with the associated costs, staffing resources and delays.

24. Where valuation disputes fall within the boundary of land for which the council has already made a CPO and a public inquiry has taken place, it would not be appropriate to introduce this process, as it could serve to cause delay to vacant possession should the CPO be confirmed. Where valuation disputes exist in these cases, the Upper Tribunal (Lands Chamber) is still considered the appropriate recourse for settling valuation disputes.

Policy implications

25. There are no further policy implications from the proposal set out in this report. The recommendation is intended to ensure the council is able to deliver on its obligations as set out within the DPA with NHHT, dated 28 April 2014.
26. The DPA sets out to undertake the regeneration of the Aylesbury Estate in line with the principles set out in the Aylesbury Area Action Plan and the council's Core Strategy. Both the Aylesbury Area Action Plan, approved by council assembly in January 2010, and the Core Strategy, approved by council assembly in April 2011, set out the council's detailed vision for the future of the Aylesbury estate.

Community impact statement

27. The effect of the negotiated acquisition or CPO will be to dispossess persons of their rights in land. This is a necessary process to ensure the redevelopment and regeneration of the Aylesbury Estate can proceed in line with the policy framework outlined above. This is considered acceptable where the proposals are in the public interest and where, as in this case, the advantages of regeneration substantially outweigh the disadvantages to those dispossessed. The council will secure an increase in the quantity and quality of housing, which will include new, improved affordable housing, on the estate.
28. All homeowners that are dispossessed regardless of age, disability, faith/religion, gender, race, and ethnicity or sexual orientation have been and will continue to be treated fairly and equally throughout negotiations, and where appropriate, offered financial and housing assistance, as well as being advised of their legal rights in accordance with statutory principles and council policy.
29. The regeneration of the Aylesbury estate is considered to have benefits to not only the immediate community but also the Borough as a whole in that it will act as a catalyst to further investment. It is therefore necessary to balance the benefits that could be provided by the proposed scheme against the possible impact to those with an interest in the affected land. In carrying out this exercise a degree of proportionality should therefore be adopted.
30. The furtherance of the regeneration will not negate the council's public sector Equality duty (PSED) under the Equality Act 2010. Indeed, in the long term, it is anticipated the

diversity of the area will be widened, as well as improved socio-economic outcomes and increased wellbeing of individuals and families being delivered.

Resource implications

31. As set out in previous reports on the Aylesbury regeneration programme on 19 November 2013, as part of the 2013/14 quarter 2 capital monitoring report, cabinet agreed a variation £53.7m to the Aylesbury capital budget to establish a total budget £76.7m for phase 1 and phase 2 of the council's Aylesbury Regeneration programme. This was based on the analysis produced by Grant Thornton for the estimated land assembly costs for the Aylesbury Regeneration programme for the period 2013/14 to 2019/20. The estimated cost of the land assembly for the whole estate is approximately £150m spread over 15 years.
32. Typical surveyor's fees for valuation work and representing clients on the Aylesbury are around £1,500. It is expected that a similar level of fee might be charged for a one off valuation and mediation. It is considered unlikely that many homeowners will adopt this approach and so the expenditure on fees can be contained within existing resources identified for the project. As set out in paragraph 23, there may also be cost benefits of this approach as by reaching agreement on values in advance of a CPO this may reduce costs incurred through the council undertaking a CPO process for sites.

Legal implications

33. As set out in the report, the issues surrounding the acquisition of leasehold and freehold properties are controlled by statute and therefore there are no additional legal implications associated with the recommendation set out in this report.

Consultation

34. Consultation has taken place with the Cabinet Member for Regeneration and New Homes and the Cabinet Member for Housing. Discussions have also taken place with Creation Trust, a local organisation that represents residents on the estate, as well discussions with homeowners, both individually and at collective meetings.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

35. The report sets out at paragraph 13 that the council has powers under s120(1) of the Local Government Act 1972 to acquire land by agreement, and this is the power relied on when acquiring properties as part of regeneration schemes such as the Aylesbury Estate. The report recommends the introduction of a non-binding process whereby an independent third party can be asked to assist in valuing properties as part of that acquisition process. There are no other additional legal implications arising from this report.

Strategic Director of Finance and Governance (FC16/006 IY)

36. The report sets out proposals in relation to the process for agreeing valuations of property for existing homeowners on the Aylesbury Estate. Any additional costs arising from the proposal are likely to be minimal and can be contained within the overall programme budget agreed by cabinet. It is possible that by avoiding long drawn-out negotiations and the need for CPO proceedings that this may in fact result in lowering the costs of buy-backs to the council.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Financial Appraisal Process for Home Owners Affected by Regeneration Schemes, Cabinet, December 2015	Southwark Council 160 Tooley Street London SE1 2QH	Simon Chambers 0207 5257495
Web link: http://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?ID=5572		
Shared Equity - An Additional Rehousing Assistance Route for Leaseholders Affected by Regeneration, Cabinet, March 2014	Southwark Council 160 Tooley Street London SE1 2QH	Simon Chambers 0207 5257495
Web link: http://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?ID=4539		
Amending the Rehousing Policy for Leaseholders affected by the Regeneration of the Aylesbury Estate Cabinet, December 2010	Southwark Council 160 Tooley Street London SE1 2QH	Simon Chambers 0207 5257495
Web link: http://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?ID=1732		
Rehousing of tenants and homeowners for the Aylesbury Estate Regeneration Programme, September 2006	Southwark Council 160 Tooley Street London SE1 2QH	Simon Chambers 0207 5257495
Web link: http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&MId=5147&Ver=4		
Elephant & Castle Leaseholder Policy, February 2005	Southwark Council 160 Tooley Street London SE1 2QH	Simon Chambers 0207 5257495
Web link: Elephant and Castle Leaseholder Policy February 2005		

APPENDICES

No.	Title
None	

AUDIT TRAIL

Cabinet Member	Councillor Mark Williams, Regeneration and New Homes	
Lead Officer	Neil Kirby, Head of Regeneration South	
Report Author	Simon Chambers, Programme Officer - Regeneration South	
Version	Final	
Dated	26 May 2016	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	26 May 2016	

Item No. 12.	Classification: Open	Date: 7 June 2016	Meeting Name: Cabinet
Report title:		Draft Old Kent Road Area Action Plan	
Ward(s) or groups affected:		Livesey, South Bermondsey, East Walworth, Grange, Chaucer, Nunhead, Peckham	
From:		Councillor Mark Williams, Regeneration and New Homes	

FOREWORD - COUNCILLOR MARK WILLIAMS, CABINET MEMEBR FOR REGENERATION AND NEW HOMES

As part of Southwark’s work to tackle the housing crisis we have been consulting with local residents, businesses and community groups along the Old Kent Road for the past year on how we can significantly regenerate the area. This work culminates in the publication of this Old Kent Road Area Action Plan which sets out how and where we expect 20,000 new homes, 5,000 new jobs, and new parks, schools and health facilities to be built over the next 15-20 years. We have listened to local residents and are clearly setting out that we want to extend the Bakerloo Line down the Old Kent Road with two new stations, in addition to the new Overground Station at Surrey Canal Station. We also want to see significant improvements to the Old Kent Road itself including bus lanes, cycle lanes, more and better crossings for pedestrians and the creation of a tree lined boulevard from the Lewisham border all the way to Tower Bridge Road. Working with landowners and developers we will create a new park at Mandela Way and at the gasholders as well as a new green link along the former Surrey Canal route. We will also create a more legible street pattern where there is currently large warehousing, big box retail, and industrial sites. We will work with the affected businesses to help them take advantage of and adapt to new development or find new more suitable premises elsewhere. This will require intensive work from our officers to make sure that as many businesses as possible benefit from these proposed changes.

We also set out in this Old Kent Road AAP that we will require 35% affordable housing with 70% of these units being social rent with the remainder being intermediate homes. This approach means that those who both need social housing and help getting on the housing ladder will receive assistance. We will also require developers to help pay for the infrastructure needed to allow this scale of development to happen, most notably the Bakerloo Line extension. We are in the process of conducting the analysis for uprating the Community Infrastructure Levy for this area, whilst this work is underway we will introduce a s106 obligation for the Old Kent Road area which will generate funds towards the extension. The AAP also sets out the need to provide new primary and secondary schools, improved play space for our children, and that development must improve air quality in the local area.

RECOMMENDATIONS

1. That cabinet:
 - a. Approves the draft Old Kent Road Area Action Plan (Appendix A) and the proposed changes to the adopted policies map (Appendix B) for public consultation.
 - b. Notes the integrated impact assessment (Appendix C), the consultation plan (Appendix D) and Habitats Regulations assessment (Appendix E).

BACKGROUND INFORMATION

2. In March 2015 the Old Kent Road was confirmed as an opportunity area in the London Plan, emphasising its significant potential for growth in homes and jobs. The designation identifies potential for at least 2,500 new homes and around 1,000 additional jobs, although notes that targets should be informed by preparation of a planning framework for the area.
3. Over the past 18 months the council has been collaborating with the GLA and TfL on the preparation of an area action plan (AAP) for the opportunity area. The purpose of the AAP will be to manage change and regeneration in the opportunity area over the next 20 years, ensuring that the area's potential transformation happens in a way that results in a better place to live, visit and work. It will provide a vision for the area as well as policies and site guidance on issues ranging from building heights and densities, land uses, open spaces, public realm improvements, social infrastructure and transport, including the delivery of the Bakerloo Line extension. It will also explain how change will be implemented, including some of the funding mechanisms that will support the delivery of infrastructure.
4. Once adopted, the AAP will be part of Southwark's Local Plan and will be used alongside the New Southwark Plan to determine planning applications and to help focus investment. It will also be endorsed by the Mayor of London as an opportunity area planning framework (OAPF). As a part of Southwark's local plan it is required to be consistent with the borough-wide New Southwark Plan and must be in general conformity with the London Plan.
5. The preparation of the AAP will be carried out in several stages, comprising of the following:
 - a. Stage 1 - Informal consultation on the draft AAP which took place between February 2015 and March 2016;
 - b. Stage 2 - Consultation on a scoping report on the integrated impact assessment, carried out over five weeks from 12 February 2016 to 18 March 2016;
 - c. Stage 2 - Consultation on the draft AAP (the current stage);
 - d. Stage 3 - Consideration of comments on the draft AAP and preparation of the final revised plan for publication
 - e. Stage 4 – Invitation of representations on the final plan and subsequent submission to the Secretary of State for an examination-in-public (EIP) in 2017.
 - f. Examination-in-public into the AAP in 2018.
 - g. Stage 5 - Adoption of the final AAP as part of Southwark's local plan in late 2019.
6. The council is currently at stage iii in the process. Over the last 18 months the council has prepared a thorough evidence base to help underpin the plan. This has included a survey of all existing businesses in the area, an analysis of the area's character including its strengths and weaknesses, a place-making and capacity study, infrastructure studies and a development viability study.
7. Extensive consultation has also taken place over the last 12 months. The council established the Old Kent Road community forum to bring together all relevant stakeholders in the area, including local residents and businesses, to raise awareness of potential changes affecting the area and explore the vision and options for growth and regeneration. This is reported further in paragraphs 9 to 15

of this report.

8. The draft AAP is accompanied by detailed OS based maps which document changes to Southwark's adopted policies map (Appendix B), integrated impact assessment (Appendix C), the consultation plan (Appendix E) and Habitats Regulations assessment (Appendix F) (which screens any impacts on EU protected wildlife habitats). In tandem with consultation on the draft AAP the council will also consult on a revision of its Community Infrastructure Levy Charging Schedule, which is addressed in a separate report on this agenda.

CONSULTATION

9. Consultation on the draft AAP is being carried out in accordance with the requirements of the Planning and Compulsory Purchase Act 2004 (as amended).
10. Over the past 12 months the council has consulted extensively on the emerging AAP. Through the community forum the council has sought to raise awareness of what the plan might mean for the local community, consider the way the area has changed over time and explore the vision for the future. Using guest speakers, workshops and planning for real exercises the forum has considered a range of themes including heritage and character, employment and businesses, retail and town centre uses, walking, cycling and buses (surface transport), open and green spaces and faith community spaces, the vision for the opportunity area and strategic options for regeneration. The outcomes and feedback have been invaluable in informing the plan.
11. Separate to the community forum, the council has maintained an on-going dialogue with a number of businesses in the opportunity area, initially through an Employment Study and also through business-focused workshops designed to capture views from business owners in the area. As well as businesses the council also targeted young people to find out their views about the Old Kent Road and their aspirations for the future. Some of these young people gave a presentation at the community forum to enable the wider community to hear their views.
12. Besides the informal consultation through the community forum, the council also consulted formally on the scope of the integrated impact assessment and the comments made have informed that document.
13. In accordance with Southwark's statement of community involvement (SCI), the draft AAP will be available for comment over a twelve week period from June 17 2016, although consultation will be focused as far as possible in the 6 weeks prior to the start of August. The draft AAP will be published on the council's website and made available at libraries, one stop shops and the council's Tooley Street offices. An advert publicising the draft AAP will be put in the press and written notification will be sent to around 1000 contactees on the Planning Policy mailing list and My Southwark.
14. In addition to the statutory consultation described above, other consultation channels will include:
 - Leaflet to be sent to all addresses in the opportunity area
 - Presentations on the draft AAP at community council meetings
 - Consideration of the draft AAP by Planning committee
 - Workshops to be held at the Old Kent Road community forum
 - Event targeted at young people
 - Targeted outreach with tenants and residents associations
 - Continuing discussions with landowners and developers.

15. These are described further in the consultation plan (appendix D):

KEY ISSUES FOR CONSIDERATION

16. The draft AAP is an ambitious plan for the regeneration of the Old Kent Road and area around it. It establishes a vision and policies to manage change over a 20 year period. Because of the proposals for the Bakerloo Line extension and the fact that the Old Kent Road is a London Plan opportunity area, the draft AAP and the evidence base which helps support it have been prepared in collaboration with officers at the GLA and TfL. In view of the need to coordinate the impacts of the draft AAP, officers at Lewisham council have also been involved in its preparation.
17. The opportunity area covers an area of 281 hectares comprising the Old Kent Road itself from the Bricklayers Arms roundabout to the borough boundary with Lewisham, as well as the hinterland on either side.
18. The vision envisages that over the next 20 years or so, the opportunity area will be transformed, becoming increasingly part of central London, providing at least 20,000 new homes and 5,000 additional jobs. The two key drivers of change are the expansion of central London and its functions and the construction of the Bakerloo Line extension. As pressure for land intensifies in central London, so many of its functions, including provision of commercial space, space for cultural activities and institutions such as universities are being pushed outwards. The effects of this are already being felt in the opportunity area as rents for commercial space are rising and demand is growing for office and managed workspace, especially around Bermondsey. The Bakerloo Line extension will bring most of the opportunity area within a 10 minute walk of a tube station, stimulating growth in homes and jobs and driving residential densities which are similar to tube station locations elsewhere in central London.

Homes

19. New homes will help meet Southwark and London's huge need for housing. They will include affordable homes and rented homes for middle income groups to help ensure the area remains accessible for existing residents. The density of homes in the core area of development would reflect densities in other central London opportunity areas, including Elephant and Castle and Canada Water. The distribution of new homes is shown in individual site allocations. These focus mainly on the industrial and retail land in the opportunity area, although would not preclude development on existing housing land. Consultation on regeneration on existing estates would need to be carried out in accordance with the principles set out in the July 2015 cabinet report.

Revitalised neighbourhoods

20. The policies in the revitalised neighbourhoods section of the draft AAP aim to ensure robust and high quality urban design and a strategy for public realm improvements. The core area contains large areas in which the historic street pattern has been lost. Reinforcing and in some cases reintroducing a strong street pattern lies at the heart of creating neighbourhoods which are easy to move around in and which can develop a character and sense of identity. Tall buildings will be appropriate in the core area where they are located close to important nodes of activity and can be set within generous public realm. On the Old Kent Road itself, the draft AAP seeks to create a rhythm to building heights with zones of transformation alternated with stretches which have more consistent should heights.

21. The Old Kent Road has a history stretching back 2,000 years. The character of the Old Kent Road has been shaped over time and it will continue to evolve. As it becomes more closely part of central London, it will take on new roles and the look and feel of the area will change. This will also create opportunities to stitch together old and new, incorporating the area's heritage assets into new development and enabling them to be appreciated better by improving their surroundings. It will also be possible to reveal parts of the area's history which have been lost, such as the former Surrey Canal route. The draft AAP outlines a heritage-led regeneration approach to ensure that the story of the Old Kent Road remains strong and indeed can be understood more clearly.
22. Achieving the vision for the area will require an upgrade of the area's public realm. The Old Kent Road itself will be transformed into a modern boulevard with improved public realm for pedestrians, protection for cyclists and improved bus infrastructure along its entire length. The AAP's public realm strategy identifies a number of places on the Old Kent Road where targeted improvements would build on existing strengths and redefine the area's character.

Local economy

23. Much of the land which is a focus for development is designated preferred industrial location (PIL) by the Core Strategy. To help understand the potential opportunities and impacts of development, the first step which the council took in preparing the plan was to carry out a survey, jointly with the GLA, of all the commercial and non-residential uses. This helped identify which businesses are operating in the area, the reason why they are there, the number of people they employ and their future aspirations. It was also a good means of making contact with businesses and raise awareness of potential future changes.
24. The draft AAP indicates that the current PIL designation will be removed and in line with the approach set out in the new Southwark Plan preferred options, there will be a transition from single use industry, warehousing and retail to mixed use neighbourhoods. The AAP identifies clusters in which employment use will need to be retained and the numbers of jobs increased. These clusters aim to build on the strengths of the existing business activities. Some affordable or low cost space would be sought from large developments. The draft AAP includes a design guide to provide further information which can help ensure that space provided will appeal to a wide range of occupiers. Where businesses may be displaced by development, the draft AAP requires developers to consider relocation strategies or other mitigation.
25. The Old Kent Road is the commercial heart of the opportunity area and the draft AAP aims to revitalise it as a high street with stronger frontages on either side and a mix of uses including retail or other non-residential uses at ground level and residential homes above. Over the lifetime of the plan we would expect a transition from "big box" retail to a high street format as land values rises and the opportunity area becomes more firmly established as part of central London.

Social infrastructure

26. The council has assessed the social and infrastructure needed to help support growth. The draft AAP identifies the needs which include up to 8 primary schools and 2 secondary schools, new health facilities, early years facilities, play facilities and sports and leisure space. While the council has sought to assess the timing when facilities will be needed, this will need to be kept under review and will depend on the rate at which development occurs and any provision which might be

made outside the opportunity area. Indicative locations are set out in the plan and the council will need to work with providers, developers and funding agencies to ensure that these can be provided in appropriate locations and at the right time. It is anticipated that the land for infrastructure will be secured under s106 planning obligations, while facilities themselves would be funded by CIL and other mechanisms.

Transport

27. The draft AAP seeks to facilitate the BLE, ensuring good access to potential stations and maximising the role of the stations as transport interchanges. Additional bus capacity alongside infrastructure which supports this including stops, stands, passenger and driver facilities will also be needed to support growth. Improvements are needed to deliver a high quality environment for people walking and cycling and car parking will be kept to a minimum, aside from spaces for disabled users and car clubs.

Environment

28. The uplift in homes and jobs anticipated will require improvement to the network of green spaces in the area. The draft AAP proposes three major additions to the green infrastructure network: new open spaces on Mandela Way and the gasworks and the reinstatement of a green route on the alignment of the former Surrey Canal. These would be supplemented by pocket parks and improvements to existing spaces, particularly at Burgess Park and around Galleywall Road and potentially at Brimington Park. New open spaces would be designed to include a range of facilities including play space, sports provision, food growing, informal recreation, nature conservation and sustainable urban drainage systems.
29. Air quality is a serious issue, particularly at the northern end of the Old Kent Road. Given the amount of development envisaged, new development will be required to go beyond air quality neutral standards and result in an improvement.
30. The draft AAP proposes a decentralised energy strategy which will help development achieve the zero carbon standards specified in the London Plan. Proposals will be required to assess the feasibility of providing energy centres which serve a wider area and to which developments around can connect.

Delivering the plan

31. Delivering the AAP will require commitment from the public sector over a long period of time. Southwark, together with Lewisham, the GLA and TfL are exploring the best way of ensuring that the approach across the authorities is coordinated and maximises the potential to obtain funding from the Treasury and other sources. The public sector owns little land in the opportunity area aside from housing estates and therefore a collaborative approach will be required with partners to ensure that infrastructure which is needed can be provided. Development will be expected to contribute financially towards the provision of infrastructure, including the Bakerloo Line extension and the borough is reviewing its CIL charging schedule to help achieve this.

Community impact statement

32. In preparing the draft AAP the council has completed an integrated impact assessment (appendix C). This assessment found that the AAP/OAPF has strong objectives for improving the quality of the environment in the opportunity area including fostering community cohesion, improving health and equal opportunities

for all. Policies reflect the aim of achieving revitalised neighbourhoods with new community facilities, healthcare, education, cultural, leisure and arts space. The plan recognises the opportunity area also has a number of existing community networks, including many religious groups and churches, creative businesses and a diverse population. There may be a risk that community networks could be affected by redevelopment in the area if meeting places or cultural facilities are displaced by development. However the AAP provides many opportunities to replace, enhance and expand community and cultural functions, which will be an integral part of the place-making strategy. The implementation of the AAP will ensure high quality development is delivered across the opportunity area, encouraging sites to consider wider considerations to achieve the aspirations of the plan, including new green spaces, improved transport infrastructure connecting routes and high quality new buildings. There may be short term effects relating to increases in construction activity. However in the long term the AAP will create a better environment for residents, workers and visitors helping to improve the health of the population including improving air quality, public realm and increasing physical activity and reducing factors relating to deprivation such as crime and unemployment.

Financial implications

33. There are no immediate financial implications arising from the draft Old Kent Road AAP. Any potential additional costs from any specific proposals emerging from the preparation and adoption of the plan or any queries thereof will be submitted as separate reports for consideration in line with the appropriate protocols.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

34. Area Action Plans (AAPs) are local development documents under the legislative framework established under the Planning and Compulsory Act 2004 ('the 2004 Act'). Regulation 5 of the Town and Country Planning (Local Planning) (England) Regulations 2012 ('the Regulations') provides that any document which (i) relates only to part of the area of the local planning authority; (ii) identifies that area as an area of significant change or special conservation; and (iii) contains the local planning authority's policies in relation to the area, is a local plan. As part of the Local Plan for Southwark, the Old Kent Road AAP, once adopted, will be used to make planning decisions on development proposals submitted to the Council.
35. A detailed statutory procedure for the adoption of local plan documents is set out in Part 6 of the Regulations including preparation and publication of a local plan, the consideration of consultation responses and the requirement for conformity with the London Plan. Section 19(3) of the 2004 Act requires that, in preparing local development documents, the local planning authority must comply with their statement of community involvement (SCI) and this report confirms that there will be compliance with the twelve week consultation period referred to in the SCI, which is itself a statutory document. The Consultation Plan which accompanies this report sets out both the statutory minimum requirements for consultation in the Regulations and the extended proposals in the SCI.
36. Ultimately, the Old Kent Road AAP will be submitted to the Secretary of State and will be subject to independent examination, as will be outlined in further reports as the statutory process progresses.
37. This report is accompanied by an Integrated Impact Assessment (Appendix C). The Integrated Impact Assessment will incorporate the Sustainability Appraisal,

Strategic Environmental Assessment, Health Impact Assessment and Equalities Analysis and these are considered separately in the following paragraphs.

38. Section 19(5) of the 2004 Act requires a sustainability appraisal of the proposals in each development plan document such as the Old Kent Road AAP and the Regulations prescribe that the sustainability appraisal report must be submitted to the Secretary of State as part of the adoption process referred to in paragraph 37. The purpose of the Sustainability Appraisal is to promote sustainable development by integrating sustainability considerations into plans. By testing each plan policy against sustainability objectives, the Sustainability Appraisal process assesses and reports the likely significant effects of the plan policies and the opportunities for improving social, environmental and economic conditions by implementing the plan.
39. Sustainability Appraisals are also required to satisfy the European Directive 2001/42/EC. The Directive requires a formal Strategic Environmental Assessment (SEA) of certain plans and programmes that are likely to have significant effects on the environment. The SEA was transposed into UK law by the Environmental Assessment of Plans and Programmes Regulations 2004. SEA is focused primarily on environmental effects, whereas Sustainability Appraisals go further by examining all the sustainability related effects of plans, whether they are social, environmental or economic. The process for undertaking a SA is conducted in accordance with the requirements of the SEA Directive.
40. The council is also required by UK law to pay due regard to advancing equality, fostering good relations and eliminating discrimination for people sharing certain protected characteristics, as set out in the Public Sector Equalities Duty (2011) (under section 149 of the Equalities Act 2010). The council carries out Equalities Analysis (EqIA) of its plans, decisions and programmes to consider the potential impact (positive and negative) of proposals on the key 'protected characteristics' in the Equality Act 2010 and on Human Rights.
41. The council is also required by UK law to pay due regard to advancing equality, fostering good relations and eliminating discrimination for people sharing certain protected characteristics, as set out in the public sector equalities duty under section 149 of the Equality Act 2010). The council carries out Equalities Analysis (EqIA) of its plans, decisions and programmes to consider the potential impact (positive and negative) of proposals on the key 'protected characteristics' in the Equality Act 2010 and with regard to the Human Rights Act 1998.
42. Health Impact Assessment (HIA) is a combination of procedures, methods and tools by which a policy, program or project may be judged as to its potential effects on the health of a population, and the distribution of these effects within the population. While a HIA is not required by law it is considered good practice, particularly since responsibility for managing the health of populations was transferred from national government to local authorities following the Health and Social Care Act 2012.
43. Part 3B of the Cabinet Role and Functions of the Southwark Constitution provides that the Cabinet Member for Regeneration and New Homes has particular responsibility for development of the local development framework.
44. Part 3F of the Constitution provides that it is function of planning committee to comment on local development framework documents in respect of all significant planning matters and to make recommendations to cabinet and this report refers to the intention to include this step in the consultation process.

45. Part 3C of the Constitution provides that approval for recommendation to council assembly of those proposals and plans contained in the council's policy framework are reserved to full cabinet.
46. Part 3A of Southwark's Constitution provides that it is the Council Assembly that must agree the policy framework including development plan documents.

Strategic Director of Finance and Governance (FC16/004)

47. This report is requesting cabinet to approve the draft Old Kent Road Area Action Plan (Appendix A) and the proposed changes to the adopted policies map (Appendix B) for public consultation.
48. The strategic director of finance and governance notes that there are no immediate financial implications arising from this report and any costs from specific proposals emerging from the adopted plan would be subject to separate report for formal approval.
49. Staffing and any other costs connected with this report to be contained within existing departmental revenue budgets.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The Core Strategy 2011	160 Tooley Street, SE1	planningpolicy@southwark.gov.uk
Web link: http://www.southwark.gov.uk/info/200210/core_strategy		
New Southwark Plan preferred options (October 2015)	160 Tooley Street, SE1	planningpolicy@southwark.gov.uk
Web link: http://www.southwark.gov.uk/downloads/download/4346/new_southwark_plan_preferred_option		
Southwark Statement of Community Involvement 2008	160 Tooley Street	planningpolicy@southwark.gov.uk
Web link: http://www.southwark.gov.uk/info/856/planning_policy/1238/statement_of_community_involvement_sci		

APPENDICES

No.	Title
Appendix A	Draft Old Kent Road AAP (circulated separately and available on the web site)
Web link: http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&MId=5147&Ver=4	
Appendices B – E below are available on the following web link:	
Web link: http://www.southwark.gov.uk/oldkentroadaap	
Appendix B	Proposed changes to the adopted policies map (available on the website)
Appendix C	Integrated impact assessment (available on the website)
Appendix D	Consultation plan (available on the website)
Appendix E	Habitats Regulations assessment (available on the website)

AUDIT TRAIL

Lead Officer	Simon Bevan, Director of Planning	
Report Author	Tim Cutts, Team Leader, Planning Policy	
Version	Final	
Dated	26 May 2016	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		26 May 2016

Item No. 13.	Classification: Open	Date: 7 June 2016	Meeting Name: Cabinet
Report title:		Community infrastructure levy (CIL) preliminary draft charging schedule and draft addendum to the adopted Section 106 and Community Infrastructure Levy Supplementary Planning Document (2015)	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Mark Williams, Regeneration and New Homes	

FOREWORD – COUNCILLOR MARK WILLIAMS, CABINET MEMBER FOR REGENERATION AND NEW HOMES

As part of Southwark’s work to tackle the housing crisis we have been consulting with local residents, businesses and community groups along the Old Kent Road for the past year on how we can significantly regenerate the area. This work culminates in the publication of the Old Kent Road Area Action Plan which sets out how and where we expect 20,000 new homes, 5,000 new jobs, and new parks, schools and health facilities to be built over the next 15-20 years. We have listened to local residents and are clearly setting out that we want to extend the Bakerloo Line down the Old Kent Road with two new stations, in addition to the new Overground Station at Surrey Canal Station. We also want to see significant improvements to the Old Kent Road itself including bus lanes, cycle lanes, more and better crossings for pedestrians and the creation of a tree lined boulevard from the Lewisham border all the way to Tower Bridge Road. Working with landowners and developers we will create a new park at Mandela Way and at the gasholders as well as a new green link along the former Surrey Canal route. We will also create a more legible street pattern where there is currently large warehousing, big box retail, and industrial sites. We will work with the affected businesses to help them take advantage of and adapt to new development or find new more suitable premises elsewhere. This will require intensive work from our officers to make sure that as many businesses as possible benefit from these proposed changes.

We also set out in the Old Kent Road AAP that we will require 35% affordable housing with 70% of these units being social rent with the remainder being intermediate homes. This approach means that those who both need social housing and help getting on the housing ladder will receive assistance. We will also require developers to help pay for the infrastructure needed to allow this scale of development to happen, most notably the Bakerloo Line extension. We are in the process of conducting the analysis for uprating the Community Infrastructure Levy for this area, whilst this work is underway we will introduce a section 106 obligation for the Old Kent Road area which will generate funds towards the extension. The AAP also sets out the need to provide new primary and secondary schools, improved play space for our children, and that development must improve air quality in the local area.

RECOMMENDATIONS

That cabinet:

- 1 Approves Community Infrastructure Levy (CIL) preliminary draft charging schedule (Appendix A) and the draft "Regulation 123 List" (the list of infrastructure items which will not be funded by section 106 planning obligations) (Appendix B) for public consultation.
- 2 Approves the draft addendum to the adopted Section 106 and Community Infrastructure Levy Supplementary Planning Document (2015) (Appendix C) for public consultation.
- 3 Notes the draft infrastructure plan (Appendix D), equalities analysis (Appendix E), consultation plan (Appendix F), SEA screening assessment (Appendix G) and Habitat Regulations Assessment (Appendix H).

BACKGROUND INFORMATION

Old Kent Road Opportunity Area

- 4 Working with the GLA and wider stakeholders the council is preparing the Old Kent Road Area Action Plan (AAP). The draft AAP is planning for significant growth of 20,000 new homes and 5,000 additional jobs in the Old Kent Road opportunity area.
- 5 Key growth drivers include delivery of the Bakerloo Line extension and wider transport improvements. Developments will be expected to contribute to funding this infrastructure through the Community Infrastructure Levy (CIL) and section 106 planning obligations.
- 6 The ambition and vision in the emerging Old Kent Road AAP is changing land values in the opportunity area. The council is therefore revising its CIL charging schedule so that CIL rates reflect current land values and to maximise the funding which can be generated for new infrastructure, while also ensuring that other policies objectives, such as provision of affordable housing, can continue to be met. The introduction of a revised CIL charging schedule could take around a year to complete. In the interim the council will seek to negotiate section 106 planning obligations in the opportunity area to contribute towards transport infrastructure, including two new Bakerloo Line extension stations. A draft addendum is proposed to the adopted Section 106 Planning Obligations and CIL Supplementary Planning Document (SPD) to achieve this.

CIL

- 7 The CIL is a levy that local authorities can choose to charge on new developments in their area. The money can be used to support development by funding infrastructure that the council, local community and neighbourhoods want. Infrastructure is defined in the CIL Regulations to include: roads and other transport facilities, flood defences, schools and other educational facilities, medical facilities, sporting and recreational facilities and open spaces. The benefits are increased certainty for the funding and delivery of infrastructure, increased certainty for developers and increased transparency for local people.
- 8 If intending to apply the levy, councils (which are designated as "charging

authorities”) must produce a document called a charging schedule which sets out the rate for their levy. These rates must be supported by an evidence base including:

- An up-to-date development plan
- The area’s infrastructure needs
- An overall assessment of the economic viability of new development.

- 9 The levy is a compulsory charge levied on most new developments that involve an increase of 100sqm or more of additional floorspace, or that involve the creation of a new residential unit. The charging authority can set one standard rate or it can set specific rates for different areas and types of development.
- 10 Some developments are exempt from paying the levy. These are developments of affordable housing and developments by charities of buildings used for charitable purposes.
- 11 It should be noted that in London’s case, the Mayor is also a charging authority. The Mayor has introduced a CIL to fund Crossrail. The Mayor’s levy is £35 per square metre, with a limited number of exceptions. Southwark collects this levy on behalf of the Mayor.

Revision of CIL

- 12 Southwark’s CIL charging schedule was adopted in 2015. This sets rates for residential, hotel, office, retail and other developments. Rates are varied by area, with three separate CIL zones defined.
- 13 The 2015 CIL charging schedule sets CIL rates of £200 per sqm and £50 per sqm for residential developments in CIL charging zones 2 and 3 respectively. The CIL Regulations establish a mechanism for inflating CIL using the All-in-Tender Price Index. By 2017 Southwark’s residential CIL charges are forecast to be £218 per sqm in zone 2 and £54 in zone 3.
- 14 The Old Kent Road Opportunity Area falls across CIL zones 2 and 3. The council proposes to revise the CIL charging schedule to increase the rate paid by residential developments falling within CIL zone 3 in the southern part of the opportunity area. This is important to help fund the transport infrastructure required to support growth in the opportunity area, including delivery of the Bakerloo Line extension.
- 15 No other changes to the CIL charging schedule are proposed beyond increasing the existing CIL rates in line with the All-in-Tender Price Index, as provided for in the CIL Regulations.

Process for preparing a CIL

- 16 The process for preparing a CIL involves a number of stages which are identified below:
 - i. Consultation on a preliminary draft charging schedule (as proposed here).
 - ii. Consultation on a draft charging schedule.
 - iii. Submission of the draft charging schedule to an independent examiner, consultation on any post-submission modifications and examination-in-public.

iv. Receipt of the examiner's report and adoption of CIL.

- 17 The council is currently at the first stage in terms of revising the existing CIL charging schedule. The 'preliminary draft charging schedule' sets out the initial revised proposals for the CIL rates for consultation. The council proposes to consult on the preliminary draft charging schedule alongside the draft Old Kent Road Area Action Plan. An examination-in-public of the revised draft charging schedule is anticipated in spring 2017 and adoption (subject to receiving a favorable report from the examiner) in summer 2017.

Section 106 Planning Obligations

- 18 Since the introduction of CIL, section 106 planning obligations continue to be used, including to fund affordable housing, but they have a more restricted role. Local authorities are now not able to pool more than 5 separate planning obligations to pay for one item of infrastructure. The intention of the CIL Regulations is that section 106 planning obligations should mainly be used to secure site specific infrastructure which is needed to directly mitigate the impact of development.
- 19 The Section 106 Planning Obligations and CIL SPD (2015) provides detailed guidance on the use of planning obligations alongside CIL. The council proposes to introduce an addendum to this SPD setting out interim guidance on the approach to using section 106 planning obligations to contribute towards funding the two new Bakerloo Line extension stations planned to serve the opportunity area. This interim approach will apply in the period while the CIL revision is prepared, ensuring that the council can secure funding for this infrastructure while the revision of the CIL charging schedule is taking place. In addition to contributing towards the stations, planning obligations will also be sought to mitigate site specific impacts of development including improvements to bus capacity and improvements for people walking and cycling.
- 20 The SPD draft addendum will be consulted on alongside the CIL charging schedule and Old Kent Road Area Action Plan. After public consultation, the addendum will be reported back to cabinet for adoption in autumn 2016.

Infrastructure planning

- 21 In conjunction with preparing a CIL charging schedule, authorities should also prepare an infrastructure plan setting out strategic infrastructure required to support growth over the period of the council's local plan. Southwark's updated draft infrastructure plan, which now includes the infrastructure required to support growth in the Old Kent Road Opportunity Area, is set out in Appendix D. The infrastructure plan is part of the evidence base needed to help justify levying a CIL. The infrastructure set out in the infrastructure plan is not an exhaustive list. It is intended to be a living document which can be updated regularly. Omission of infrastructure items from the list would not preclude such items being funded in the future through CIL. Nor does the infrastructure plan commit the council to spending the amounts set out in the plan.
- 22 A key principle of CIL is that after CIL is adopted authorities should not be spending both CIL and section 106 planning obligations on the same item of infrastructure. Government guidance requires authorities to be clear about those items which will not be funded by section 106 planning obligations and set these out in a list. This is called a Regulation 123 list (which refers to Regulation 123 of

the CIL Regulations 2010). After CIL has been adopted, the Regulation 123 List will be amended, subject to appropriate local consultation.

- 23 The council proposes to amend the Regulation 123 List (Appendix B) for the period in which the council is revising the CIL charging schedule to clarify that contributions towards construction of the Bakerloo Line extension (BLE) will be generated through CIL, but that this excludes contributions towards the two new BLE stations in the opportunity area. These can be part funded through section 106 planning obligations. The revised Regulation 123 will be consulted on alongside the SPD draft addendum and adopted in the autumn. The Regulation 123 list will be updated again following the adoption of the revised CIL charging schedule to enable CIL to contribute towards all elements of the BLE.

Consultation

- 24 The CIL Regulations 2010 (as amended) set out consultation requirements for planning documents. In accordance with Southwark's statement of community involvement (SCI), the preliminary draft schedule will be available for comment over a twelve week period from June 17 2016, although consultation will be focused as far as possible in the 6 weeks prior to the start of August. Consultation will take place alongside the draft Old Kent Road Area Action Plan.
- 25 A second round of consultation will then be held on the draft CIL schedule for a period of 6 weeks in late 2016.
- 26 The CIL preliminary draft charging schedule, SPD draft addendum, Regulation 123 List and supporting documents will be made available on the council's website and in local libraries. The council will also notify around 1,000 consultees in the Planning Policy mailing list and My Southwark. The revised preliminary draft CIL and the SPD draft addendum will also be publicised at the community councils.

KEY ISSUES FOR CONSIDERATION

- 27 The council is planning for significant growth of 20,000 new homes and 5,000 additional jobs in the Old Kent Road opportunity area through the emerging Old Kent Road AAP. The delivery of new and improved transport infrastructure, particularly the Bakerloo Line extension, is critical to unlocking the growth opportunities.
- 28 CIL and section 106 planning obligations will make a key contribution towards the cost of delivering this infrastructure.

CIL

- 29 By 2017 Southwark's residential CIL charges are forecast to be £218 per sqm in zone 2 and £54 in zone 3. The council is proposing to change the boundary of CIL zone 2 so that residential developments currently falling within CIL zone 3 in the Old Kent Road opportunity area will fall within zone 2. This will mean that residential development across the Old Kent Road opportunity area pays the higher rate of £218 per sqm. This will be important to help to fund the transport infrastructure required to support growth.
- 30 The CIL regulations and the National Planning Practice Guidance (NPPG) specify that in setting their levies charging authorities should strike a balance

between the desirability of securing funding for infrastructure and the potential impacts of charging a CIL on the economic viability of development across their areas. Charging authorities should be able to show and explain how their proposed levy rates will contribute towards the implementation of their plan and support development across the area. Levies must also take into account the requirement to pay the Mayoral CIL and should also consider impacts on planning policies, including the requirement to provide affordable housing.

- 31 The National Planning Policy Framework (NPPF) requires planning authorities to properly consider development viability when considering infrastructure delivery. If development is not viable, it will not proceed and this would impact on the provision of new homes, including affordable homes, and new jobs to support the economy. The viability study undertaken to inform the change to the CIL charging schedule indicates that while viability may be challenging for a number of sites, schemes on lower value land that would be expected to come forward in the early years are viable with a range of affordable housing levels. CIL represents a small proportion of overall development costs and therefore does not have a significant influence on making a scheme viable or unviable, or on the level of affordable housing that can be provided. The council's viability testing suggests that where the quantum of affordable is affected, on some sites CIL might result in a decrease of up to around 5%.
- 32 The council has made an assessment of the infrastructure required to support growth in the Old Kent Road opportunity area, and across the borough more generally, over the next 20 years (appendix D). Sources of committed funding to support infrastructure have also been identified. Inevitably, there is more certainty over funding sources for projects to be delivered in the short term and much less certainty over mid and longer term projects. The infrastructure plan is a living document and can be updated regularly. CIL will play an important role in contributing to the infrastructure requirement to support growth at Old Kent Road, although it will not be sufficient to cover the cost entirely and the council will continue to explore other sources of funding to deliver all the infrastructure set out in the infrastructure plan. The CIL regulations allow up to 5% of CIL generated to be used to monitor and administer the charge. As with section 106 planning obligations, once the CIL is brought into effect the council will monitor funding generated and publish regular monitoring reports on the website.
- 33 Charging authorities should also make available a draft list of infrastructure items that in the future will not be funded by section 106 planning obligations (the Regulation 123 List). These are items which could be funded or part funded by CIL. Projects not referred to on list could be funded by either CIL or planning obligations. The NPPG advises that authorities should ensure they are clear about what infrastructure is needed and what will be paid for via CIL and via section 106 planning obligations. There should be no actual or perceived 'double dipping' with developers paying twice for the same item of infrastructure through CIL and section 106 planning obligations. By amending the regulation 123 list the council will further clarify which infrastructure will be funded by which route.
- 34 Overall it is considered that the change of the CIL zone 2 boundary to ensure that all residential development in the Old Kent Road Opportunity Area pays the higher CIL rate of £218 per sqm represents an appropriate balance between generating funding to secure provision of infrastructure and ensuring that CIL does not put development and regeneration in the borough at risk.

SPD draft addendum

- 35 The council proposes to introduce an addendum to the section 106 planning obligations and CIL SPD setting out the approach to negotiating section 106 planning obligations in the opportunity area. In the interim period before the revised CIL can be adopted the council will negotiate contributions for two new Bakerloo Line extension stations from residential developments providing 100 or more homes. The value of the contribution would be £164 per square metre and affordable housing would be exempt. This value has been informed by the viability testing which has underpinned the AAP and also takes into account the cost of the Bakerloo Line extension stations.
- 36 A key consideration is the pooling restriction, referred to above, which prevents local authorities from pooling more than five separate planning obligations to pay for one item of infrastructure. The council could negotiate this planning obligation from up to 10 developments. Following the adoption of a revised CIL in 2017, CIL could contribute to both the stations and the tunnel itself, without the pooling restriction.

Community impact statement**Equalities analysis**

- 37 An equalities analysis was undertaken as part of the preparation of the council's existing CIL charging schedule. This has been updated to reflect the changes proposed in the revised preliminary draft schedule. In accordance with the Equality Act 2010, the analysis considers the potential impacts of the charging schedule on those groups identified within the Act as having protected characteristics. The main issues are summarised below.
- 38 The change to the CIL charge proposed for residential developments in CIL zone 3 in the Old Kent Road Opportunity Area is considered to give rise to limited impacts on the individual groups that are identified in the Equality Act. The equalities analysis for the original CIL identified that the imposition of an increased CIL charge could have potential impacts on small businesses in some parts of the borough, which could impact on a range of groups including BME communities. However, the council is proposing no changes to the CIL Charging Schedule, other than a revised rate for residential development in CIL zone 3.
- 39 There is a small risk that the proposed increase in the CIL rate will drive up values which will make it harder to access housing which is affordable. However, the proposed charging schedule has been informed by viability appraisals and the level of CIL reflects existing values and is not reliant on any increase in values.
- 40 Ultimately, CIL is a mechanism intended to raise money to fund infrastructure that will contribute to sustainable development in the borough. In this sense, the adoption of CIL should have an overall positive impact on the various equalities groups. More specific impacts may arise depending on the types of infrastructure that are ultimately funded through CIL, but such issues are not broached as part of the charging schedule and will be considered in due course in the context of decisions concerning expenditure.

Sustainability Appraisal

- 41 The Core Strategy 2011 and emerging Old Kent Road Area Action Plan were subject to sustainability appraisal incorporating strategic environmental assessment to ensure that the principles of sustainable development were thoroughly considered. The Southwark CIL is an extension of the spatial vision and policies set out in the Core Strategy and Old Kent Road Area Action Plan and should not raise additional implications for sustainable development objectives which have not been previously considered; nor should the SPD addendum which involves limited amendments to an existing adopted SPD. The NPPG notes that SPDs do not require a sustainability appraisal.

Financial implications

- 42 Significant new infrastructure, including the Bakerloo Line extension costing around £1.25 billion, is required to unlock growth opportunities in the Old Kent Road Opportunity Area. CIL and section 106 planning obligations will make a key contribution towards the cost of delivering this infrastructure. The council is proposing to increase the CIL rate paid by residential developments falling within CIL zone 3 in the Old Kent Road Opportunity Area so that residential development across the opportunity area pays the higher rate of £218 per sqm. In the interim, before the revised CIL charging schedule is adopted, the council will seek to negotiate section 106 planning obligations to help to fund key infrastructure such as the Bakerloo Line extension stations.
- 43 A combination of CIL and section planning obligations funding in the opportunity area would generate around £158m over the plan period. These measures will help to reduce the infrastructure funding gap, but alternative sources of funding will still need to be identified.
- 44 Costs associated with both managing, monitoring and establishing Southwark CIL can be recouped from up to 5% of any CIL income.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

- 45 The Planning Act 2008 (PA 2008) introduced a discretionary planning charge known as the Community Infrastructure Levy (CIL). The statutory framework for CIL is set out in sections 205-225 of the PA 2008 and further detail is provided under a number of regulations, in particular, the CIL Regulations 2010 (as amended).
- 46 Section 211 of the PA 2008 provides that the council, in setting its rates or other criteria, must have regard to:
- a) the actual and expected costs of infrastructure;
 - b) the economic viability of development (which may include, in particular, actual or potential economic effects of planning permission or of the imposition of CIL); and
 - c) other actual and expected sources of funding for infrastructure.
- 47 The legislation therefore seeks to ensure that charging schedules balance the desirability of funding infrastructure against the potential effects of the charge on the economic viability of development in the authority's area. The regulations

also set out other costs to be factored in, such as administrative expenses and Mayoral CIL.

- 48 There is no legislation on how long a charging schedule should apply once adopted; nor is there any duty in the PA 2008 or the CIL Regulations 2010 for the schedule to be reviewed. However, guidance encourages charging authorities to keep their charging schedule and Regulation 123 Lists under review. Should the charging schedule be reviewed, the charging authority must follow the same process of consultation, examination and approval as for the initial schedule.
- 49 As set out within this report, the council intends to consult on the Community Infrastructure Levy preliminary draft charging schedule, the draft Regulation 123 List and the draft addendum to the adopted Section 106 Community Infrastructure Levy Supplementary Planning Document 2015 widely and in accordance with its Statement of Community Involvement.
- 50 The cabinet is being asked to approve the above documents for consultation.
- 51 CIL forms part of the Local Development Framework and can be considered analogous to other LDF documents such as the Development Plan Documents. Under Part 3 (C) of the council's Constitution, the cabinet collectively has responsibility for the council's policy framework (function 3), its finances (function 7) and approval of preferred options (effectively advanced drafts of) development plan documents (function 20). In any event, cabinet has power under Article 6 of the Constitution to carry out all of the local authority's functions which are not the responsibility of any other part of the council.
- 52 The Equality Act 2010 introduced a single public sector equality duty. This duty requires the council to have due regard in its decision making processes to the need to:
- (a) eliminate discrimination, harassment, victimisation or other prohibited conduct;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not; and
 - (c) foster good relations between those who share a relevant characteristic and those that do not share it.
- 53 The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 54 An Equalities Assessment was carried out when the charging schedule and SPD were first introduced and have been (and will continue to be) updated. The council also intends to consult a broad range of groups and will make every effort to be inclusive.
- 55 The charging schedule, Regulation 123 List and SPD addendum potentially engage certain human rights under the Human Rights Act 1998 ('the HRA'). The HRA prohibits unlawful interference by public bodies with convention rights. The term 'engage' simply means that human rights may be affected or relevant. In the case of the charging schedule, Regulation 123 List and SPD addendum, a number of rights are potentially engaged:

- The right to a fair trial (Article 6) – giving rise to the need to ensure proper consultation and effective engagement of the public in the process;
- The right to respect for private and family life (Article 8) – for instance the setting of CIL tariffs and planning obligations could impact on viability of housing provision or re-provision. Other considerations may include impacts on amenities or the quality of life of individuals based on CIL or planning obligations being too prohibitive;
- Article 1, Protocol 1 (Protection of Property) – this right prohibits interference with individuals' right to peaceful enjoyment of existing and future property/homes.

56 It is important to note that few rights are absolute in the sense that they cannot be interfered with under any circumstances. 'Qualified' rights, including Article 6, Article 8 and Protocol 1, can be interfered with or limited in certain circumstances. The extent of legitimate interference is subject to the principle of proportionality whereby a balance must be struck between the legitimate aims to be achieved by a local planning authority in the policy making process against the potential interference with individual human rights. The consultation of the charging schedule, Regulation 123 List and SPD addendum are not expected to contravene any of these rights.

Strategic Director of Finance and Governance (FC16/003)

- 57 The report is requesting cabinet to approve the Community Infrastructure Levy (CIL) preliminary draft charging schedule and draft addendum to the adopted Section 106 and Community Infrastructure Levy Supplementary Planning Document (2015), detailed in the recommendations and the background is provided within the main body of the report.
- 58 The strategic director of finance and governance notes that the proposals intend to increase the value of income available from CIL which will contribute towards the high value infrastructure projects planned for the area. It is also noted that the council will seek to negotiate section 106 planning obligations in the interim to help fund key infrastructure projects until the revised CIL charging schedule is adopted.
- 59 The availability of income under the revised proposals in funding the council's infrastructure projects will need to be closely monitored on a regular basis.
- 60 It is also noted that the costs associated with managing, monitoring and establishing Southwark CIL can be recouped from up to 5% of any CIL income.
- 61 Staffing and any other costs connected with this recommendation to be contained within existing departmental revenue budgets.

BACKGROUND DOCUMENTS

Background paper	Held at	Contact
Southwark Statement of Community Involvement 2008	Southwark Council, 160 Tooley Street London SE1 2QH	planningpolicy@southwark.gov.uk
Web link: http://www.southwark.gov.uk/info/856/planning_policy/1238/statement_of_community_involvement_sci		
New Southwark Plan preferred options	Southwark Council, 160 Tooley Street London SE1 2QH	planningpolicy@southwark.gov.uk
Web link: http://www.southwark.gov.uk/downloads/download/4346/new_southwark_plan_preferred_option		
The Core Strategy 2011	Southwark Council, 160 Tooley Street London SE1 2QH	planningpolicy@southwark.gov.uk
Web link: http://www.southwark.gov.uk/info/200210/core_strategy		
Draft Old Kent Road Area Action Plan 2016	Southwark Council, 160 Tooley Street London SE1 2QH	planningpolicy@southwark.gov.uk
Web link: http://www.southwark.gov.uk/info/856/planning_policy/3112/old_kent_road		

APPENDICES

No.	Title
Appendix A	Community infrastructure levy (CIL) preliminary draft charging schedule (circulated separately and available on the web site)
Appendix B	Draft Regulation 123 list (available with the report)
Appendix C	Draft addendum to the adopted Section 106 and Community Infrastructure Levy Supplementary Planning Document (2015) (available with the report)
Appendix D	Infrastructure Plan (available on the website)
Appendix E	Equalities Analysis (available on the website)
Appendix F	Consultation Plan (available on the website)
Appendix G	SEA screening assessment (required for SPD addendum only) (available on the website)
Appendix H	Habitat Regulations Assessment (required for SPD addendum only) (available on the website)

AUDIT TRAIL

Cabinet Member	Councillor Mark Williams, Regeneration and New Homes	
Lead Officer	Simon Bevan, Director of Planning	
Report Author	Doug McNab, Planning Policy	
Version	Final	
Dated	26 May 2016	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		26 May 2016



No.	Title
Appendix A	Community infrastructure levy (CIL) preliminary draft charging schedule (available with the report)
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CIL Regulation 123¹ list

Infrastructure type and projects
Education
Existing primary school <u>provision</u> /expansion (not land), except for Alfred Salter, Redriff and Rotherhithe primary schools
Secondary school provision /expansion (not land), except for Bacon's College secondary school
Health
All with the exception of sites where there is a planning requirement to provide a health use, including a new facility to serve the Canada Water core area
Libraries
All with the exception of sites where there is a planning requirement to provide a library
Open Space
Improvements to District Parks (Burgess Park, Dulwich Park, Peckham Rye and Southwark Park).
Other
Cemeteries (not including land)
Modernised adult care facilities
Storm water storage areas: Camberwell, Dulwich, Peckham Rye and North Peckham
Sports
New leisure centre in Canada Water town centre (not including land)
Transport
Bakerloo line southern extension (not including land <u>and infrastructure costs for delivering the two stations on Old Kent Road</u>)
Camberwell Station (not including land)
Camberwell town centre improvements to pedestrian crossings, signals and pavements
Cycle routes and parking (not including <u>cycle infrastructure in the Old Kent Road opportunity area</u> ; on-site cycle infrastructure; and development specific signage)
Elephant and Castle northern roundabout pedestrian and cycle improvements
Elephant & Castle underground stations (not including land)
New cycle and pedestrian Thames crossing at Rotherhithe
Peckham Rye station

¹ Refers to Regulation 123 of the Community Infrastructure Regulations 2010 (as amended)

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Draft addendum to the Section 106 Planning Obligations and CIL SPD (2015)

May 2016

WHAT IS THIS DOCUMENT?

The Section 106 Planning Obligations and Community Infrastructure Levy (CIL) SPD, April 2015, provides detailed guidance on the use of section 106 planning obligations alongside the community infrastructure levy. It outlines how we will use s106 planning obligations to address the site specific negative impacts of development and explains how Southwark negotiates the most common section 106 (s106) planning obligations.

This document is an addendum to Southwark's adopted Section 106 Planning Obligations and CIL SPD, April 2015. It explains how we will use section 106 planning obligations and CIL in the Old Kent Road opportunity area (OA) and provides guidance on our approach to negotiating section 106 contributions for transport infrastructure for applicable developments within part of the opportunity area. As well as the adopted Section 106 Planning Obligations and CIL SPD, 2015, this document should be read alongside the Old Kent Road area action plan (AAP) which is currently at draft stage.

THE INFRASTRUCTURE NEEDED TO DELIVER GROWTH ON THE OLD KENT ROAD

We are planning for 20,000 new homes and 5000 additional jobs in the Old Kent Road opportunity area. Upwards of 40,000 new people living in the area will require improvements to infrastructure including public transport, open space, schools, public realm, etc. This is explained in more detail in the draft Old Kent Road AAP.

We anticipate that this will cost in the region of £1.5 Billion and may be funded from a variety of sources (see tables 1 and 2 below). Funding generated by CIL and section 106 planning obligations will make a key contribution towards the cost of delivering this infrastructure.

In line with the adopted Section 106 and Planning Obligations and CIL SPD we will also help deliver local projects in addition to those listed above; at least 25% of CIL funds will be spent locally on projects listed in the Community Infrastructure Project Lists (CIPL) or where relevant on projects listed in an adopted neighbourhood plan.

Table 1: Old Kent Road infrastructure projects by phase

Plan phase	Population growth	Infrastructure required	Who is involved?	Cost	Funding sources	CIL/ interim Section 106 planning obligations generated
2015/16 – 2020/21	1430	1 primary school	LB Southwark, Academies, Free Schools, Developers	£7.5M	CIL Investment by education providers DfE funding	CIL: £10m
2021/22 – 2025/26	10435	1 primary school, 1 secondary school	LB Southwark, Academies, Free Schools, Developers	£16M	CIL. Investment by education providers DfE funding.	CIL: £46m
		New open spaces (former Surrey Canal green route)	LB Southwark, Developers	£6M	Direct provision by developers on-site; CIL and grant applications for off-site facilities. CIL and grant applications	
		Primary substation	UK Power Networks, LB Southwark, Developers	£16M (excluding land costs)		
2026/27 – 2030/31	14844	3 primary schools	LB Southwark, Academies, Free Schools, Developers.	£22.5M	Off-site subsidy through CIL; Investment by education providers DfE funding.	CIL: £45m
		New open spaces (Mandela Way and Gas Works)	LB Southwark, Developers	£6.5M	Direct provision by developers on-site; CIL and grant applications for off-	

					site facilities	
2031/32 – 2035/36	14334	2 primary schools 1 secondary school	LB Southwark, Academies, Free Schools, Developers	£23.5M	Off-site subsidy through CIL; Investment by education providers DfE funding. Direct provision by developers on-site; CIL and grant applications for off- site facilities	CIL: £57m
		New open spaces (Mandela Way and Gas Works)	LB Southwark, Developers	£5M		
TOTAL	41043					£158m

Table 2: Old Kent Road infrastructure projects delivered across multiple phases

Project	Who is involved?	Funding	Timescales
Bakerloo Line extension (feasibility studies and tunnelling) (portion of line which is within the Old Kent Road OA)	LB Southwark, LB Lewisham, TfL, GLA	£855 million Funding sources likely to include CIL, TfL and Treasury	Throughout all delivery phases
Two stations on the BLE	LB Southwark, LB Lewisham, TfL, GLA	£397.9 million Funding sources likely to include s106 planning obligations prior to the revision of the CIL Charging Schedule; CIL, TfL and Treasury	Throughout all delivery phases
Improvements to walking and cycling facilities and routes	LB Southwark, TfL, Developers	Cost tbc; In kind provision on-site, s106 planning obligations and TfL	Throughout all delivery phases
Improvements to bus infrastructure and services	LB Southwark, TfL	Cost: tbc; s106 planning obligations, TfL	Throughout all delivery phases
Enhancements to Old Kent Road public realm	LB Southwark, TfL	Cost: tbc; In kind provision on-site, s106 planning obligations, TfL	Throughout all delivery phases
Improved open spaces	LB Southwark, Developers	£12M? CIL and grant applications	Throughout all delivery phases
Decentralised energy network	Energy Services Company (ESCO),	£57.5-63.6 Million (depending on	Phased delivery through to 2026

	LB Southwark, Developers	option implemented). An ESCo could pay the capital costs and recoup these through connection and heat charges	
Strategic SUDS	Thames Water, LB Southwark, Developers	Tbc. Anticipated funding from s106. Potential funding from Thames Water.	Throughout all delivery phases
Upgrade access to superfast broadband	Broadband providers, LB Southwark, Developers	~£3 Million. Funded by digital providers through agreements with developers and service charges	Phased delivery through to 2026
Health facilities	LB Southwark, NHS Southwark CCG	£15.5M CIL and NHS funding?	2026-2031?
Sports facilities	LB Southwark, Commercial leisure providers	£15M Private investment; CIL if need for new public facilities arises	Timescale will be identified if monitoring indicates need for new facilities
Play facilities	LB Southwark, Developers	Direct provision by developers on-site; CIL and grant applications for off-site facilities as part of cost of new open space	Throughout all delivery phases
Early years care	LB Southwark, Developers, Commercial providers	Direct provision by developers and private investment	Throughout all delivery phases

REVISION OF CIL

Our 2015 CIL charging schedule sets CIL rates of £200 per sqm and £50 per sqm for residential developments in CIL charging zones 2 and 3 respectively. The CIL Regulations establish a mechanism for inflating CIL using the Building Cost Information Service (BCIS) All-in-Tender Price Index. By 2017 Southwark's residential CIL charges are forecast to be £218 p/sqm in zone 2 and £54 in zone 3 (based on BCIS February 2016 update). We are revising our CIL charging schedule to charge £218 for residential development across the Old Kent Road opportunity area. Examination and adoption is planned for 2017. CIL charging rates in other CIL zones and for other uses will be updated in line with the All-in-Tender Price Index. We will review our CIL charging schedule again in 2018.

APPROACH TO SECTION 106 PLANNING OBLIGATIONS IN THE OLD KENT ROAD OPPORTUNITY AREA

Across the opportunity area section 106 planning obligations will be sought where necessary to mitigate the impact of development, in line with the approach set out in the adopted Section 106 Planning Obligations and CIL SPD (2015). This will include the need to mitigate the impact of development on transport capacity, including through improvements to surface public transport and facilities for people walking and cycling, prior to the delivery of the Bakerloo Line extension which is projected to be around 2030. Development will also need to pay the Mayoral CIL and Southwark CIL.

In addition, in the period prior to adopting a revised CIL charging schedule, major developments located in the south of the opportunity area (see hatched area in Figure 1 below) which provide 100 or more residential homes will be expected to contribute towards the cost of delivering the transport infrastructure projects listed below. We will ordinarily expect the contribution to be £164 per square metre of residential floorspace, subject to the legal test of regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended. Affordable housing will be exempt. Contributions from large scale non-residential development of over 10,000sqm floorspace will be negotiated on a case by case basis.

The funds secured via this obligation will be directed to the following infrastructure projects:

- Old Kent Road Station 1 (Northern station) on the Bakerloo Line extension
- Old Kent Road Station 2 (Southern station) on the Bakerloo line extension

The value of this obligation will be indexed to the All-in-Tender Price Index and will be updated annually. It will be calculated using the gross internal area (GIA) of the development and will be applied to new residential floorspace (existing residential floorspace can be offset).

Funds will be strictly managed by the council and will only be allocated to those projects listed above. In accordance with section 123 of the CIL Regulations 2010 (as amended) we will not pool more than five separate planning obligations towards any one of these infrastructure items; and we will not seek to use this charge to fund any infrastructure projects identified on our Regulation 123 list.

The NPPG advises that authorities should ensure they are clear about what infrastructure is needed and what will be paid for via CIL and via section 106 planning obligations. There should be no actual or perceived 'double dipping' with developers paying twice for the same item of infrastructure through CIL and section 106 planning obligations. By amending our Regulation 123 List (see below) we will further clarify which infrastructure will be funded by which route. We will ensure robust monitoring measures are in place to avoid any 'double dipping' in practice.

When the revised CIL charging schedule is adopted (which we anticipate will be in 2017) this particular obligation will no longer be sought.

REGULATION 123 LIST

Our Regulation 123 List is a list of those infrastructure projects or types for which we will not seek to negotiate section 106 planning obligations; these projects or types of infrastructure may be funded partly or wholly by CIL.

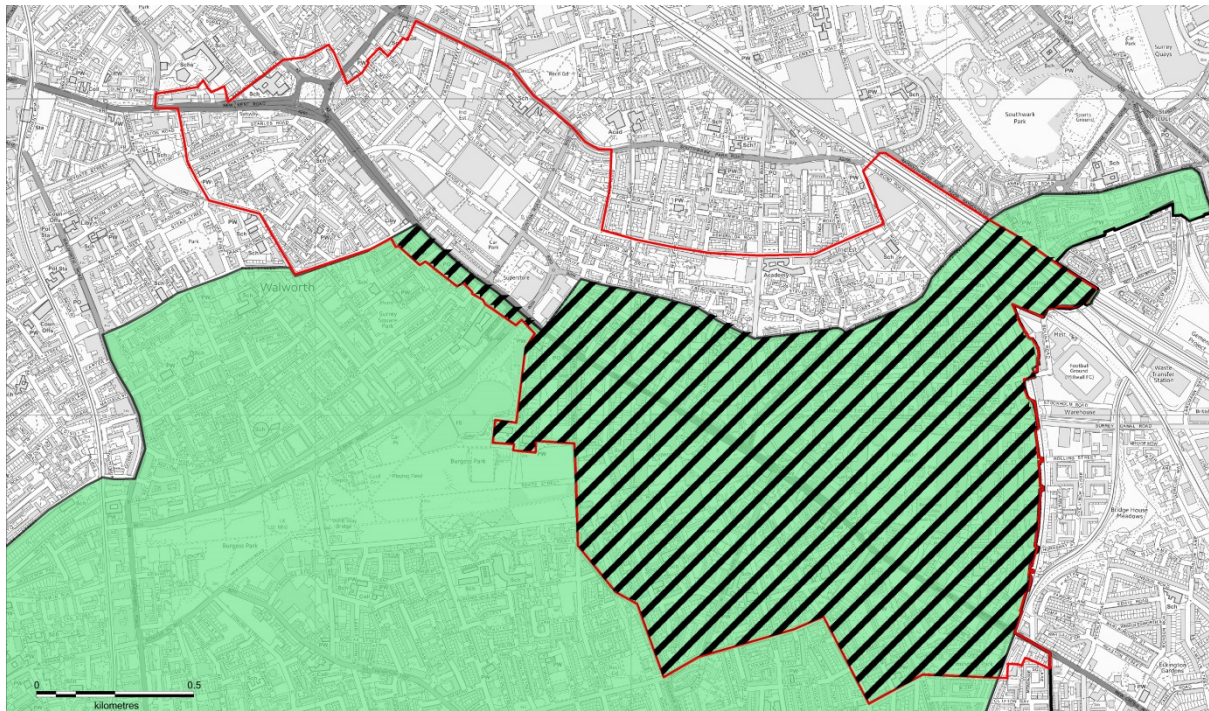
The current Regulation 123 List identifies a range of projects for funding via CIL including existing primary school expansion, health facilities, open space improvements to district parks and the Bakerloo Line extension (BLE).

When the existing CIL charging schedule and Regulation 123 List were developed we had limited information on the BLE. In particular we did not know where the stations would be located and how many would be appropriate within the Old Kent Road opportunity area. Based on ongoing joint working with the GLA and TfL we now have a more detailed understanding of the proposed route of the BLE and the location and size of two new BLE stations required to support the planned growth in the opportunity area.

Based on this new evidence and to support delivery of the BLE station infrastructure, we propose to amend our Regulation 123 List for the period in which the s106 transport tariff is in place to clarify that contributions towards construction of the two BLE stations in the opportunity area will be secured via s106 rather than CIL. Contributions to delivery of the BLE itself, excluding the stations, will continue to be secured via CIL.

The revised Regulation 123 list is being consulted on alongside this addendum. The Regulation 123 list will be updated again following the adoption of the revised CIL rates to enable CIL to contribute towards all elements of the BLE.

Figure 1: Map showing CIL charging zone 3 (green), OKR OA boundary (red) and area where section 106 will be negotiated for transport infrastructure (hatched)



REASONS

The CIL regulations require that s106 planning obligations must be:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

The section 106 planning obligation set out above is necessary to deliver the specific infrastructure projects identified, which are critical to unlocking delivery of 20,000 new homes in the opportunity area. Evidence suggests that an increase in land values will be required to deliver the densities and numbers of homes envisaged in the 20 year timescale of the AAP. Improvements to transport infrastructure including the BLE will play a key part in increasing values and accelerating growth. Delivery of these improvements is therefore critical to realising the scale of growth planned for the AAP.

The design of the BLE, including the requirements for new stations, was not known in detail when Southwark's 2015 CIL was put in place and therefore are not reflected in the existing CIL arrangements. By introducing this section 106 planning obligation we will ensure that we can secure funding towards the delivery of the BLE stations in a timely manner, helping to unlock growth.

Cumulatively, all developments in the opportunity area will impact on the existing transport networks and will require mitigation. Similarly, all development benefit from the delivery of this infrastructure. It is therefore fair and reasonable that development should pay a contribution towards these costs.

We are committed to revising CIL to take into account the latest evidence on infrastructure requirements and to help reduce the funding gap and deliver the infrastructure required to support growth in the opportunity area. The section 106 obligation proposed here is

therefore an interim measure prior to our planned introduction of revised CIL charges for the opportunity area in 2017.

The value of the obligation has been informed by viability testing of notional and real developments in the opportunity area to ensure that the charge remains reasonable and related in scale to development. This work indicated the combination of CIL and planning obligations would equate to a small percentage of overall costs and therefore it would have limited impact on the viability of developments. In accordance with the NPPF (paragraphs 173-175) the viability testing assessed the likely cumulative impacts on development of all existing and proposed local standards and policy requirements, including affordable housing requirements and sustainability requirements to ensure that that development viability was not undermined.

The value of the obligation has been set having regard to the need to secure the Bakerloo Line extension stations and the need to ensure that most development is not made unviable as a result of the obligation. No changes are proposed to the CIL/section 106 burden in zone 2.

Item No. 14.	Classification: Open	Date: 7 June 2016	Meeting Name: Cabinet
Report title:		Policy for Considering Intervention under the Town and Country Planning Act 1990 to Enable Redevelopment to Proceed	
Ward:		All	
Cabinet Member:		Councillor Mark Williams, Regeneration and New Homes	

FOREWORD – COUNCILLOR MARK WILLIAMS, CABINET MEMBER FOR REGENERATION AND NEW HOMES

Southwark has a proud record of welcoming appropriate development to our borough where it delivers real benefits for our residents. In the past few years this has included new homes, new affordable homes, contributions to build new council homes, jobs for our residents, new parks, and most recently the brand new Castle Leisure Centre at The Elephant. To enable development in the future we may need to use section 227 powers under the Town and Country Planning Act 1990 to help stalled schemes move forward. Section 237 allows local authorities to over-ride third party rights so that they cannot be injuncted, but instead have to be settled via compensation based on the impact on value of the affected property. This report sets out the council's approach should such approaches be made to the council, and will only be considered in the last resort to enable much needed development to come forward so that we can continue to tackle the housing crisis head-on and deliver the investment in our social infrastructure our residents need.

RECOMMENDATIONS

That Cabinet agrees:

1. That it will consider using the provisions of s227 of the Town & Country Planning Act 1990 on a case by case basis to enable stalled developments to proceed.
2. To adopt the principles set out in Appendix A of this Report to evaluate applications to use the provision of s227 of the Town & Country Planning Act 1990.

BACKGROUND INFORMATION

3. Southwark as a place has changed radically in the past twenty years and continues to change dynamically in response to the needs and aspirations of the community and its place within London an international city. The council has been instrumental in these changes through planning policy and use of its property assets. Private landowners in their ability to foresee demand and development opportunities for their assets have played a key role too in this transformation. To respond to future demands in land use e.g. housing and employment the council will continue to facilitate the reuse of land where in doing so it accords with adopted policy.

4. The assembly of sites for redevelopment is often a difficult and risky process involving purchase of land and then achieving vacant possession. Some sites contain multiple ownerships. Assembly is made even more difficult by the existence of third party rights over land such as the right for persons to cross over land or where neighbouring owners to enjoy the right of light to their property and the intended development interferes with that. The more mature the area, the greater the likelihood of such rights. Where these rights exist, the ultimate developer (who may differ from the assembler) is unlikely to proceed with the scheme until those rights are extinguished. The reason for this is the development could be halted if the beneficiary of a right obtains an injunction from the court.
5. Site assemblers (that may or may not be the ultimate developer but hereafter included in the term “developer”) will endeavour to extinguish such third party rights by negotiation and this often results in the beneficiary receiving a cash payment and/or mitigation work to waive the right. However where one or more beneficiary is either not prepared to negotiate the waiver of the right or is seeking such a sum that makes the development unviable a scheme will not be able to proceed even though it would deliver policy aspirations. The situation can be compounded in the short to medium term if buildings have been vacated and are boarded up and left to deteriorate as a result of the stalled development process.
6. In recognition that there are occasions, where the existence of third party rights over land can frustrate the development process, s237 of the Town and Country Planning Act 1990 gives local authorities the ability to over-ride such rights. In doing so, interference with them is no longer actionable by way of an injunction but is a matter of compensation based on the diminution in value of the beneficiary’s land interest as a result of the interference. Where compensation cannot be agreed, it will be determined by the Upper Tribunal (Lands Chamber).
7. To avail itself of the s237 power to over-ride third party rights the local authority must own the land in question and appropriate the land for planning purposes as provided for in s122 of the Local Government Act or s232 of the Town and Country Planning Act 1990. Appropriation is the internal process whereby a local authority changes the purpose for which it holds land, for instance from say housing purposes to planning purposes. Where land is acquired under s226 (by compulsion) or s227 (by agreement) of the Town and Country Planning Act 1990 it automatically benefits from the over-riding of third party rights set out in s237. The over-riding described benefits subsequent owners of the land concerned.
8. Where the council is assembling land for regeneration, land is acquired for planning purposes (under s226 by compulsion if necessary or s227 if by agreement) (hereafter referred to as “s227 powers”) and in doing so s237 is engaged such that any third party rights are over-ridden (beneficiaries are still entitled to compensation). Where land to be assembled is already owned by the council but held for another purpose it is appropriated for planning purposes and the cabinet has periodically approved reports that provide for this.
9. It therefore follows that where third party rights are genuinely stalling/preventing development an option is for the local authority to acquire the development site for planning purposes and then to dispose of it back to the developer.
10. Land development is generally a multi-million pound enterprise with many considerable risks. Developers will understandably seek to mitigate risk and uncertainty. The latter is of particular relevance. Where a risk is ascertained it

can be quantified and mitigation measures taken. However where there is uncertainty of a significant nature a developer is either unlikely to proceed until that uncertainty is resolved or may withdraw from the proposed development.

11. Where there are third party rights that will be interfered with when land is developed these are enforceable at law. In reality, the beneficiaries will seek a court order to stop the development (an injunction). The court will consider the application and decide either to award damages or if it the interference is deemed of such a degree that damages will not properly compensate the beneficiaries grant an injunction that will prevent the development proceeding. Cabinet will appreciate the risk of abortive costs in commencing a development, then having it halted pending a court hearing and then having to reinstate as a consequence of an injunction is such that developers will not proceed. Even if the court determine that damages is appropriate compensation, these may be substantial based on a share of the development value of the scheme and far in excess of the loss of value arising to beneficiaries as a result of the interference. This uncertainty/risk will also halt developments.
12. Where the council acquires land under s227 powers in order to override third party rights, the beneficiaries will receive compensation based on the value of their properties with the right versus the value of the property without the right. This compensation is based on the diminution in value of the affected property. If agreement between the parties is not possible it will be determined by the Upper Tribunal Lands Chamber. For example:

Users of a commercial building have a rear access via an adjoining owner's land that is now to be developed; using the rear access will no longer be possible when development commences.

<i>Value of commercial building with the right</i>	<i>say £1,600,000</i>
<i>Value of commercial building without the right</i>	<i>say <u>£1,500,000</u></i>
<i>Diminution in value</i>	<i>£100,000</i>

13. Diminution in value can be reasonably accurately assessed in advance and factored into development calculations thus removing the risk/uncertainty described in paragraph 11. The right to compensation by the beneficiaries is claimable against the council exercising its s227 powers but the developer will have indemnified the council so will ultimately pick up this cost.
14. The council has received some enquiries from development site owners if it will intervene to enable stalled or stalling developments to proceed. It is therefore appropriate for cabinet to decide if it will consider such intervention. In order to both give clarity to prospective applicants and for consistent decision making a policy should guide the consideration of such applications.

KEY ISSUES FOR CONSIDERATION

15. As previously mentioned, the basic premise of the proposed intervention is that the council acquires land for planning purposes and disposes of it back to the original vendor. Except for relatively low value transactions where the director of regeneration has delegated authority, the power to buy or sell land is reserved to the cabinet.
16. Case law suggests the over-riding of a right that would otherwise be actionable by law (such as the ability to seek an injunction against a new building interfering

with existing light) may be an interference with human rights. Therefore in considering using the acquisition/disposal machinery advocated it is necessary to consider the human rights of the person(s) whose rights are being over-ridden and the proportionality of this. In other words, will the council's intervention to bring about a development that would not otherwise happen, result in something that benefits the wider community to such an extent that it is reasonable to deprive an owner of her/his right to seek through the courts an order to stop that development?

17. In the considering the above question, it is recognised that every such case must be looked at on its own merits. However for the reasons set out in paragraph 14, cabinet is recommended to approve principles to evaluate applications that may be received. The principles set out in Appendix A are therefore commended to cabinet. The following paragraphs set out the rationale for them.

The Principles set out in Appendix A

18. *Paragraph (a)* sets out the context of the document in accordance with paragraph 14 of this report.
19. *Paragraph (b)* requires the development should normally have been consented to by the planning committee. The council's powers under s227 exist 'in the interests of the proper planning of an area in which the land is situated'. Therefore without a consent from the committee it is unlikely this criterion is fulfilled. There may be occasions when an application is not consented to by the committee but consent is gained on appeal. In these circumstances, cabinet may consider in its opinion the development is not 'in the interests of the proper planning of the area' and decline to utilise s227 powers. There may however be exceptional circumstances where an application was refused by committee and granted on appeal where as a result of a policy change in the intervening period cabinet may feel the development does satisfy the 'proper planning' test.
20. *Paragraph (c)* requires the applicant to demonstrate there is not a reasonable alternative development scheme for the site that avoids interfering with third party rights. In reality, a developer will have considered this at an early stage with a view to designing around those rights as this will provide greater certainty and less risk to the scheme. However, particularly in central London, this may not be possible without losing critical mass and other benefits of the proposed development,
21. *Paragraph (d)* requires that the council's involvement is a matter of last resort and that it must be satisfied that without intervention there is little prospect of the developer and third party right beneficiaries reaching agreement to enable the scheme to proceed. It is not the council's place or intention to determine where one or more financial offers have been made to beneficiaries if those offers are right. Instead, it needs to be satisfied that the developer has made reasonable and genuine efforts to reach agreement with the beneficiaries. Since such offers probably have been made on a without prejudice basis and are time limited it will probably not be possible to report them to cabinet. In practice, the council's director of regeneration will be given sight of relevant offers and details of negotiation progress and recommend to cabinet if in his opinion this principle has been satisfied by the developer.
22. *Paragraphs (e-g)* means that the council's intervention will be at no cost to the public purse. Before using s227 powers the council must be satisfied it is

covered for all its costs including compensation to the beneficiaries and professional, legal and administrative expenses. In this connection, a bond may be necessary because in rare circumstances the ultimate developer may differ from the one that requests the use of s227 powers. Once such powers are exercised those third party rights are capable of being overridden and a strict duty to pay compensation rests with the council and there may be a change in land ownership before resolution. The bond will protect the council in these circumstances.

23. *Paragraph (h)* means the arrangement for the transfer of land to the council and then back to the developer must not result in the council breaching its statutory duties. It is likely developers will seek to mitigate their liability to Stamp Duty Land Tax through transactional arrangements. The terms must not result either in a breach of the council's statutory obligations or by facilitating inadequate taxation payment charges.
24. *Paragraph (i)* confirms that in using its s227 powers the council must do so in compliance with its Public Sector Equality Duty (see paragraphs 26-29 below).
25. *Paragraph (j)* requires the council to look at the use of its s227 powers in the round in each case and to consider if their use is proportionate in the circumstances before it.

Community impact statement/public sector equalities duty

26. The Equality Act 2010 imposes a general equality duty on public authorities (PSED), in the exercise of their functions, to have due regard to the need to:
 - Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act.
 - Advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it.
 - Foster good relations between people who share a relevant protected characteristic and those who do not share it.
27. For the purpose of the PSED the following are 'protected characteristic' considerations:
 - Age
 - Civil partnership
 - Disability
 - Gender reassignment
 - Pregnancy and maternity
 - Race
 - Religion or belief
 - Sex and sexual orientation.
28. This report sets out the principles to be applied where the council is asked to acquire land and then to transfer it back to the original vendor in order that third party rights over the land are overridden. This ultimately may result in individuals losing the ability to enforce those rights at court in order that the wider community can benefit from a development. The principles provide a decision making framework with a view that applications are determined proportionately taking account of individual rights and wider community benefit.

29. Decisions for individual applications are likely to be taken by the cabinet since the acquisition and disposal of land is a not a matter that can be delegated to officers unless it is of relatively low value (see paragraph 40 of this report) and the intervention set out in this report is only likely to apply to schemes where the land value significantly exceeds the delegation thresholds. Such decisions will follow reports setting out the circumstances of the applications and how those applications meet the principles set out in Appendix A of the report. Paragraph (b) of the Appendix requires a planning application to have been consented to and as part of the planning process there will be the usual consultation with affected parties.

Resource implications

30. As confirmed in paragraph 22 of this Report and paragraphs (e)-(g) of Appendix A the council will not consider s227 requests until it is satisfied all its costs of doing so will be fully met by the applicant.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law & Democracy

31. The report recommends that cabinet will consider applications to the council to use its powers under s227 of the Town and Country Planning Act 1990 on a case by case basis and that it will adopt the guidelines set out in this report for doing so.
32. Section 227 of the Town and Country Planning Act 1990 ("TCPA 1990") provides that "...a London Borough may acquire by agreement any land which they require for any purpose for which a local authority may be authorised to acquire land under section 226".
33. Section 226 TCPA 1990, which deals with compulsory acquisitions, sets out the purposes for which local authorities may acquire land compulsorily as follows:
- "s226 (1) (a) if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land,
- (b) which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated".

Section 226 (1A) goes on to say that "... a local authority must not exercise the power under paragraph (a) of subsection (1) unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects –

- (a) The promotion or improvement of the economic well-being of their area;
- (b) The promotion or improvement of the social well-being of their area;

(c) The promotion or improvement of the environmental well-being of their area”.

34. Provided the cabinet is satisfied that the requirements in section 226 and section 227 are satisfied, there are adequate legal powers in the TCPA 1990 to allow the council to acquire land by agreement under s227.
35. However, as this report makes clear, the council would be using its powers to acquire land by agreement under s227 in order that the provisions of s237 could be engaged.

Section 237 provides : “(1) subject to subsection (3), the erection, construction or carrying out or maintenance of any building or work on land which has been acquired or appropriated by a local authority for planning purposes (whether done by the local authority or by a person deriving title under them) is authorised by virtue of this section if it is done in accordance with planning permission, notwithstanding that it involves –

- (a) interference with an interest or right to which this section applies, or
- (b) a breach of a restriction as to the user of the land arising by virtue of a contract.”

36. Section 237(5) provides that the liability to pay compensation to a third party whose rights have been interfered with is enforceable against the local authority. It is for this reason that, as the report states at paragraph 22, the council would need to ensure that it was adequately indemnified in respect of any claims arising.

37. As the report indicates, the council would subsequently seek to dispose of land it had acquired pursuant to section 227 in order that a developer could carry out development on that land (as envisaged by the wording in brackets in s237(1) recited above). Section 233(1) TCPA 1990 provides that “Where any land has been acquired or appropriated by a local authority for planning purposes and is for the time being held by them for the purposes for which it was so acquired or appropriated, the authority may dispose of the land to such person, in such manner and subject to such conditions as appear to them to be expedient in order:

- (a) to secure the best use of that or other land and buildings or works which have been, or are to be, erected, constructed or carried out on it (whether by themselves or by any other person), or
- (b) to secure the erection, construction or carrying out on it of any buildings or works appearing to them to be needed for the proper planning of the area of the authority”

Section 233(3) provides that “The consent of the Secretary of State is also required where the disposal is to be for a consideration less than the best that can reasonably be obtained...”

38. As set out in the report cabinet would need to be satisfied in respect of any disposal that the consideration for the disposal was not less than the best that can reasonably be obtained. If it was the case that the consideration was less

than the best that can reasonably be obtained, the consent of the Secretary of State would be required.

39. In considering whether to acquire and then dispose of land for a planning purpose in order to take advantage of section 237, it is clear from the above that legal powers exist, these need to be considered in the context of the purpose of the use of those powers, i.e. in order to facilitate development but enabling interference with the rights of third parties. As the report highlights, the council will be required to look at every case on its own merits and carry out a balancing exercise to ascertain whether the interference with private rights is proportionate to the public interest in enabling the proposed development to proceed. The council would also need to consider the impact on any rights enjoyed by neighbouring owners arising out of the Human Rights Act 1997.
40. The council's constitution (Part 3C) provides that the acquisition of land and property, outside any scheme already agreed by members, where the market value is more than £100,000, is a decision reserved to cabinet. Similarly reserved to cabinet is any decision relating to the disposal of leasehold and freehold interests in land and property where the market value is more than £750,000.
41. The Housing and Planning Act 2016 received Royal Assent on 12 May 2016. It contains new provisions relating to the power to override easements and other rights which will, when they come into force, replace s237 TCPA. No date has yet been given for the coming into force of those sections, which will have the same effect as s237 in that they will enable third party rights to be overridden.

Strategic Director of Finance & Governance (FC15/58)

42. The strategic director of finance and governance notes that, as stated within the resource implications, the costs are expected to be covered by the s227 applicant.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

Appendix	Title
Appendix A	Principles for use of s227 Town & Country Planning Act 1970

AUDIT TRAIL

Cabinet Member	Councillor Mark Williams, Regeneration and New Homes	
Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	Patrick McGreal, Regeneration - North	
Version	Final	
Dated	25 May 2016	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law & Democracy	Yes	Yes
Strategic Director of Finance & Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	25 May 2016	

APPENDIX A

Principles for London Borough of Southwark considering using its powers under s227 of the Town and Country Planning Act 1990 to enable stalled developments to proceed.

Context

- (a) The decision to utilise the powers will usually rest with the Council's Cabinet that will consider each application on its own merits. However, to assist with potential applications this criteria document will guide both applicants and the Cabinet.

Planning Consent

- (b) The Council's Planning Committee should have consented to the development to which the Council is being asked to exercise its powers under s227 and by the time any application to use s227 powers is made, the time limits for the planning committee's decision to be challenged in the courts should have passed. The existence of a consented scheme would enable the interests likely to be affected by development to be identified.

Alternative

- (c) Is there a reasonable alternative way of developing the site to achieve the outputs of the consented scheme without interfering with third party rights? If there is, the Council will normally expect that option to be followed.

Last Resort

- (d) Bona-fide negotiations must have taken place with the parties that will have their rights overridden with a view to those rights being released by agreement. Where those negotiations failed because of unrealistic demands by the beneficiaries of those rights and as a consequence the proposed scheme cannot proceed the Council will contemplate use of its s227 powers.

Indemnity

- (e) The Council will require reimbursement in full of its costs in considering any s227 application even if the Council subsequently decides not to use its powers.
- (f) If the Council does decide to utilise s227, the applicant will have to meet in full the Council's costs in acquiring the site from the applicant and subsequently transferring the site back to the applicant. Such costs will include legal fees including counsel advice if deemed necessary, land registry fees, Stamp Duty Land Tax, surveyor fees and other bona fide costs.
- (g) Should the use of s227 result in compensation claims lodged against the Council the applicant must undertake to meet all the Council's costs in dealing with such claims and the compensation that may be determined either by agreement or by the Upper Tribunal (Lands Chamber).

No breach of statutory duty

- (h) The Council is obliged by s123 of the Local Government Act 1972 (land in general) and s233 of the Town and Country Planning Act 1990 (land held for planning purposes) when disposing of land to do so at best consideration therefore the terms of the transaction to effect the sale to the Council and the sale back to the applicant cannot result in a breach of this duty.

Public Sector Equalities Duty

- (i) The Council must be satisfied in exercising its s227 powers that in doing so it will not result in its Public Sector Equalities Duty being breached.

Proportionality

- (j) Taking all relevant considerations into account does the development scheme benefit the wider community to such an extent that it is reasonable to deprive beneficiaries of the rights the ability to seek through the courts an order to stop that development.

Item No. 15.	Classification: Open	Date: 7 June 2016	Meeting Name: Cabinet
Report title:		Fairer Future Procurement Strategy for Southwark Council	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Fiona Colley, Finance, Modernisation and Performance	

FOREWORD – COUNCILLOR FIONA COLLEY, CABINET MEMBER FOR FINANCE, MODERNISATION AND PERFORMANCE

Our council's vision is to create a fairer future for all in Southwark. We have promised to deliver value for money, high quality services in our borough and naturally this is central to our strategy for procurement of supplies, services and works. However, we believe there is an opportunity for our procurement and contracts to deliver so much more than this.

This strategy sets out how we will use procurement to promote enhanced employment rights, to ensure fair pay and terms and conditions, to reduce inequality and to encourage ethical corporate behaviour. It continues our commitment for all contractors to pay the London Living Wage and introduces a new requirement asking that they sign up to the Southwark Diversity Standard, that covers key issues such as offering guaranteed hours contracts. It makes clear that companies that engage in illegal blacklisting of union members and activists can expect to have their contracts terminated.

The strategy also ensures that key strategic contracts have early and timely political input when assessing options and before a decision is taken about the external procurement of the services. Gateway zero decisions will include challenging whether services should be procured externally at all or if we could achieve better outcomes with an in-house service as we have done with our in-sourcing of customer services and the revenue and benefit service.

Our contracts also present an opportunity for added social value, when our contractors are able to provide additional benefits, at little or no additional cost. Whilst we are flexible and open to bidder's proposals of what added value they can offer, we are of course particularly seeking social value offers that help us to achieve our fairer future promises and commitments such as local employment and apprenticeship opportunities. In the coming months we will be piloting a new tool that we hope will assist us in assessing the value of these proposals in relation to our fairer future priorities and to better monitor the delivery of social value within contracts.

I'd like to thank all the members of overview and scrutiny committee whose 2015 report was the genesis of this Strategy and many of the new commitments within it. I hope that it will live up to their ambitions and help deliver our shared ambition of a Fairer Future for All in Southwark.

RECOMMENDATIONS

1. That cabinet approve the Fairer Future Procurement Strategy. This replaces the Contracts and Procurement Strategy in the Medium Term Resources Strategy.
2. That cabinet approve the introduction of a strategic assessment (gateway zero) into the procurement governance process for service contracts over £10m.
3. That cabinet note the next steps for enhancing our commitment and approach to social value in procurement as outlined in paragraphs 23 to 32.
4. That cabinet endorse the additional actions to combat the practice of 'blacklisting' as detailed in paragraphs 33 to 42.
5. That cabinet note there will be consequential amendments to the constitution, including the contract standing orders, following the approval of the Fairer Future Procurement Strategy to reflect updates required as highlighted in the report.

BACKGROUND INFORMATION

6. The overview and scrutiny committee undertook a review of commissioning and procurement at Southwark. The recommendations of the review were presented to cabinet on 10 February 2015.
7. A response to the recommendations was given at cabinet on 21 July 2015 with an undertaking to develop a Fairer Future Procurement Strategy.
8. This report therefore provides a proposed Fairer Future Procurement Strategy (FFPS) to be approved by cabinet.
9. The Overview and Scrutiny committee on 10 March 2016 discussed the question of how the council's procurement process addresses relationships between companies within a group and suggested that this be taken into account in the cabinet's consideration of the council assembly motion of 26 January 2016 on blacklisting.
10. Cabinet on 15 March 2016 agreed that officers consider the policy implications of the motion and recommendation from the overview and scrutiny committee and bring a report back to cabinet.

KEY ISSUES FOR CONSIDERATION

11. It is essential that the council undertakes procurements fairly and well, as good procurement practice is central to achieving the council's fairer future promises. Good procurement has the potential to deliver key community impacts by encouraging local small and medium sized businesses, and by enhancing the social value the council gains from its spending.
12. Promise 1: Value for Money. The council will continue to keep council tax low by delivering value for money across our high quality services. The link from this promise to the council's Fairer Future Procurement Strategy is clear.

13. Good procurement will be central to achieving many of the other fairer future promises, as they will require capital works or other service procurement. These include:
 - Promise 2: Health for all
 - Promise 3: Quality affordable homes
 - Promise 4: more and better schools
 - Promise 5: Nurseries and childcare
 - Promise 7: Safer communities
 - Promise 9: Revitalised Neighbourhoods.
14. Good procurement is also central to achieving our Fairer Future values. Treating residents as if they were a valued member of our own family, means ensuring that services provided are fit for purpose and meet needs now and in the future.
15. Being open, honest and accountable is a key requirement when we are spending public money, and when we are working to encourage new suppliers. We must be able to demonstrate that our procurement practice makes it easy for others, including the voluntary and community sector to engage with us.
16. Spending money as if it were from our own pocket: this requires a rigorous analysis of whether we need to spend at all, along with careful specifications to ensure we are buying in a cost effective manner.
17. Making Southwark a place to be proud of is also about leveraging our position to getting the most from our spending with external organisations through contracts. This can include seeking to package work so that it is achievable for local small and medium sized enterprises, as well as gaining social value from our procurements.

Spending money as if it were coming from our own pocket

18. The Procurement Strategy sets out the importance of achieving value for money for all spend that the council has with external providers, in the way in which contracts are both let and managed.

Being open honest and accountable

19. The use of public funds for contracts is subject to appropriate scrutiny, to ensure that this has been done fairly and in compliance with the council's contract standing orders, transparency obligations and wider legislation including the Public Contract Regulations 2015. The FFPS addresses the need to incorporate the council's values and aims, when it considers the route to delivery for services, supplies and works, and how to maximise opportunities to support its aims when it enters into contracts with external suppliers.
20. Cabinet are asked to approve the recommended introduction of a "gateway zero: strategic assessment" process which explores the options and makes the case for the preferred mode of delivery, for example, in-house, private sector, VCS sector or shared service. If to be procured externally, the strategic assessment will also consider the broad methods by which a service is to be delivered, such as single provider or framework of providers.

21. Gateway zero: strategic assessments would be required for all services contracts that are over £10m in value (excluding all capital works). The relevant cabinet member may also request a gateway zero strategic assessment for a project that falls below this value, or is for goods or works, but which holds strategic importance to the council.
22. The gateway zero: strategic assessment should set out how the delivery or commissioning decision will address social value causes such as London Living Wage, apprenticeships, local employment, equality considerations and environmental impacts.

Making Southwark a place to be proud of

23. The council has a commitment to getting the most of its spend with external organisations through contracts. The additional value that benefits the local area, economy and residents is termed social value.
24. The council wishes to work with current suppliers, as well as potential suppliers, to explore opportunities for bringing benefits to the local community, environment and economy.
25. The FFPS confirms the council's current practice that all gateway one reports for all tenders should consider the possible social value and additional benefits that could be delivered as part of the delivery of the contract. This is beyond the council's legal obligation under the Public Services (Social Value) Act 2012 to consider what social value could be obtained during a procurement process for all service contracts (including social and other specific services) that are subject to the Public Contract Regulations 2015.
26. Social value must be linked to the delivery of benefits to Southwark and specifically to deliver the council's Fairer Future promises and policy commitments and targets. These include:
 - London Living Wage
 - Job creation
 - Apprenticeships and work placement opportunities
 - Environmental and sustainability considerations
 - Requiring suppliers to comply with the council's Safer Lorries, Safer Cycling Pledge including the Fleet Operator's Recognition Scheme at Gold standard where appropriate.
27. All gateway two reports that set out the contract award recommendation must set out the social value that has been committed as part of the tender process. Contract managers will be responsible for the on-going management, measurement and reporting of the delivery of the social value commitments as part of contract management.
28. A social issue may be an award criterion if it is linked to the subject matter of the contract. Where it is, the council can take into consideration social benefits at every stage of the procurement, including at selection (in terms of the bidder's experience) and at award (in terms of the bidder's proposals to deliver social benefits). In nearly all circumstances it will be possible to seek to secure additional social benefits.

29. The evaluation criteria for social benefits must be set out in any OJEU Notice. Wording used for this purpose should be framed as broadly as possible to ensure maximum flexibility throughout the process. The following is example wording:
- “It is intended that this Project acts as a catalyst for [broadly define the goal of the social benefits e.g. regeneration within the London Borough of Southwark]. Accordingly, the [contractor] will be required to actively participate in achieving these objectives and contract performance conditions may relate to social and environmental considerations. The contractor’s technical capability to meet these requirements may also be assessed at the pre-qualification stage and criteria which assess the manner in which the contractor will meet these requirements may also be included within the contract award criteria.”*
30. An open question may be drafted as follows:
- “Bidders are required to demonstrate how they would construct and operate their supply chain(s) in order to respond to matters in the area of the specific Scheme, evidenced by specific examples. This should include as a minimum: Employment opportunities; Education / training / apprenticeship opportunities within the supply chain.”*
- or*
- “The Contractor is required to state in Appendix # the number of small businesses (SMEs) and Social Enterprises (SEs) that it will employ on the Project. The Contractor will be required to make opportunities available and to support the development of an effective supply chain.”*
- or*
- “The Contractor is required to develop and deliver a community benefits plan identifying the benefits which it will contract to deliver during the course of the contract. The plan should describe in detail each benefit, how and when it is to be delivered.”*
31. It is proposed that between 5 and 10% of the total marks available within the ‘quality’ part of any price/quality evaluation will be used for social value. Where this is not possible then lead contract officers will identify this in their gateway 1: procurement strategy reports.
32. Social value could bring long-term good to Southwark by:
- Creating skills and training opportunities
 - Creating employment opportunities for the long-term unemployed or those not in education, employment or training (NEETs)
 - Offering work placements to school children and young adults
 - Providing career advice and information for young people on specific careers, such as construction, architecture or engineering
 - Offering curriculum support to schools, with contractors sharing knowledge and expertise about their discipline
 - Improving the health and wellbeing of Southwark residents
 - Providing additional opportunities for individuals or groups facing greater social or economic barriers
 - Creating supply chain opportunities for SMEs and social enterprises
 - Creating opportunities to develop third sector organisations
 - Encouraging community engagement
 - Supporting initiatives like targeting hard to reach groups
 - Encouraging ethical and fair trade purchasing.

Countering Blacklisting

33. The council is aware of the destructive practice of blacklisting that occurred for many years in the UK construction industry and the disastrous effects it had on many of the workers who were included on the blacklist, many of whom were apparently blacklisted for raising legitimate health and safety concerns with their employer.
34. The council already has a process in place for works contracts to identify any companies that have made use of the blacklist in the past to ensure that they have put in place actions to prevent such behaviour recurring and to compensate those victimised by the practice. This can be extended to other contracts as long as the approach is proportionate and relevant.
35. Cabinet were asked to consider a provision to include blacklisting in the prequalification questionnaire for new construction contracts.
36. The council cannot include a pre-qualification stage in any procurement valued under the EU threshold for services (currently £164,176). This means the council cannot have a separate stage during which it assesses the suitability of candidates to reduce the numbers who proceed to tender. However, the council can ask candidates suitability assessment questions as long as they are relevant to the subject-matter of the procurement and proportionate. Questions relating to the Blacklists Regulations may be particularly appropriate for construction related procurements.
37. For over-EU threshold procurements, the council is required to use a government standard Pre-Qualification Questionnaire which allows for limited amendments. It may be appropriate to include Blacklist Regulations questions within the technical section and advice should be sought from the contracts team in legal services. Example questions are shown in appendix 2.
38. Blacklisting can amount to an act of grave professional misconduct which renders the organisation's integrity questionable, and so could justify exclusion of a tenderer from a procurement. However, any exclusion must be:
 - Proportionate
 - Justified on the evidence
 - Considered on a case-by-case basis
 - Not a means of punishing operators for past wrong doing.
39. The council can also require "self cleaning" which enables a potential contractor to show that it has taken or will take measures to put right its earlier wrongdoing and to prevent them from re-occurring and to provide evidence that the measures taken by the potential contractor are sufficient to demonstrate its reliability.
40. For 'self cleaning' the contractor should prove that it has:
 - "Owned Up": clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities
 - "Cleaned Up": taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct, and
 - "Paid Up": paid or undertaken to pay compensation in respect of any damage caused.

41. The council must evaluate these measures taking into account the gravity and particular circumstances of the misconduct. If the council considers the evidence is sufficient the potential contractor shall not be excluded from the procurement procedure. If the council considers the measures are insufficient, we must give the economic operator a statement of the reasons for that decision.
42. In respect of a request to cabinet to consider making provision in the council's terms and conditions for public works for termination of the contract if a supplier is found to engage in blacklisting activities during the course of that contract – a sample clause to achieve this is shown below:

The Provider/Contractor shall (and shall procure that the Provider's Personnel/Contractor's Employees shall) comply with the requirements of the Employment Relations Act 1999 (Blacklists) Regulations 2010 ("the Blacklists Regulations) and shall ensure that it will not during the [Term/Contract Period/provision of the Works] be a party to or concur in any discriminatory employment practice which could be construed as blacklisting or boycotting any person who has sought employment with the Provider/Contractor in breach of the Blacklists Regulations.

The Employer may terminate this contract in the event that the Provider/Contractor commits an offence under the Employment Relations Act 1999 (Blacklists) Regulations 2010.

Constitution implications

43. If cabinet agrees the proposed FFPS, a number of changes to the council's constitution, including the contract standing orders would need to be made to reflect this.
44. These amendments cover:
- the introduction of gateway zero strategic assessments and their approval by cabinet members
 - update to key decisions definition to reflect need for gateway zero strategic assessments to be included in the forward plan
 - explicit requirements to consider and report on the option for in-house services provision in all pre-tender gateway one reports
 - consideration and reporting on commitments for social value in the gateway reports for all procurements.
 - to reflect the requirements associated with the use of the eProcurement system
 - update to reflect the previously recommended member engagement "where the aggregate value of the contract or purchase is valued at £100,000 or more, the lead contract officer must consult with the relevant portfolio holder before the procurement strategy is implemented."

Policy implications

45. The Fairer Future Procurement Strategy reflects and provides support for how some of the council's policies will be implemented where they affect procurement and commissioning of contracts. These include supplier commitment to its Diversity Standard, payment of the London Living Wage where appropriate and targets around social value priorities such as

apprenticeships that form part of the Fairer Future commitments.

Community impact statement

46. This strategy sets out the consideration that the council will have in future procurement processes. In ensuring that as part of this process, the maximum possible benefit and impact of the procurement and resulting contract to benefit on local people and the community, the strategy aims to have a significant positive impact, assessed on a case by case basis for each procurement requirement.
47. The provisions within the FFPS, particularly around social value, are designed to encourage and support the integration and early consideration of factors through procurement activities that will provide benefits to local people and communities.
48. Encouraging suppliers to commit to the council's Diversity Standard will support this work and all will be required to comply with all equalities legislation.

Resource implications

49. The strategy sets out how procurement processes will integrate council policy and best practice and support the delivery of the council's Fairer Future commitments. It is intended to have a positive impact on improving the outcomes and delivery of value for money from spend with external providers.
50. The procurement advice team will continue to support in the development of procurement strategies and processes, as well as providing guidance, templates and training where appropriate to support the FFPS.

Legal Implications

51. Please see the supplementary advice from the director of law and democracy at paragraphs 54-56.

Financial implications

52. The Fairer Future Procurement Strategy and agreement of this report does not have any immediate financial consequences. Any procurement or in-house provision conducted under the FFPS must be achieved within the council's agreed budget.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance

53. The strategic director of finance and governance notes the recommendations in this report for a Fairer Future Procurement Strategy. The agreement of the recommendations in this report does not have any immediate financial consequences. Any procurement or in-house provision conducted under the FFPS must be achieved within the council's agreed budget.

Director of Law and Democracy

54. This report seeks the cabinet's approval for the Fairer Future Procurement Strategy (FFPS) and other matters relating to it. By virtue of Part 3B of the council's Constitution, the cabinet has responsibility to consider the promote strategic and council wide initiatives to improve the quality, efficiency and effectiveness of the council's services to the public, and therefore the decision to approve the report recommendations is reserved to cabinet.
55. Council procurement and the FFPS must comply with all applicable EU and UK legislation and guidance. The key considerations and commitments set out in the FFPS are to be delivered in the context of legislation where this is applicable. Legislation includes the Public Contract Regulations 2015, the Equality Act 2010 and the Public Services (Social Value) Act 2012. The contracts team in law and democracy will continue to support in the development of procurement strategies and processes by providing guidance, templates and training on the legal implications and issues surrounding procurement and the FFPS.
56. The cabinet's attention is drawn to the Public Sector Equality duty (PSED General Duty) under the Equality Act 2010, and when making decisions to have regard to the need to (a) eliminate discrimination, harassment, victimisation or other prohibited conduct, (b) to advance equality of opportunity and (c) foster good relations between persons who share a relevant protected characteristic and those who do not share it. The relevant characteristics are age, disability, gender reassignment, pregnancy and maternity, race, relation, religion or belief, sex and sexual orientation, The PSED General Duty also applies to marriage and civil partnership but only in relation to (a). The PSED General Duty is a continuing duty and potential equality considerations should be considered at the different stages of the procurement cycle. The cabinet is specifically referred to the community impact statement at paragraphs 47-49 of the report, and paragraph 17 of the FFPS which sets out the consideration that has been given to equalities issues which should be considered when considering these recommendations.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Overview & Scrutiny Committee Agenda 19 January 2015	Scrutiny Team 160 Tooley Street London SE1 2QH	Shelley Burke 020 7525 7344
Link: http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=308&MId=4900&Ver=4		
Cabinet Agenda 21 July 2015	Constitutional Team Southwark Council 160 Tooley Street London SE1P 5LX	Paula Thornton Paula.thornton@southwark.gov.uk 020 7525 4395
Link: http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&MId=5138&Ver=4		

APPENDICES

No.	Title
Appendix 1	Fairer Future Procurement Strategy
Appendix 2	Examples of Blacklisting Evaluation Criteria

AUDIT TRAIL

Cabinet member	Councillor Fiona Colley, Finance, Modernisation and Performance	
Lead Officer	Duncan Whitfield, Strategic Director of Finance and Governance	
Report Author	Elaine McLester, Head of Procurement	
Version	Final	
Dated	25 May 2016	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Chief Officers	Yes	Yes
Cabinet Member	Yes	
Director of Public Health	Yes	Yes
Head of Finance and Information Governance	Yes	Yes
Date final report sent to Constitutional Team		26 May 2016

APPENDIX 1

FAIRER FUTURE PROCUREMENT STRATEGY

Foreword by Cllr Colley, Cabinet Member for Finance, Modernisation and Performance

Our council's vision is to create a fairer future for all in Southwark. We have promised to deliver value for money, high quality services in our borough and naturally this is central to our strategy for procurement of supplies, services and works. However, we believe there is an opportunity for our procurement and contracts to deliver so much more than this.

This strategy sets out how we will use procurement to promote enhanced employment rights, to ensure fair pay and terms and conditions, to reduce inequality and to encourage ethical corporate behaviour. It continues our commitment for all contractors to pay the London Living Wage and introduces a new requirement asking that they sign up to the Southwark Diversity Standard, that covers key issues such as offering guaranteed hours contracts. It makes clear that companies that engage in illegal blacklisting of union members and activists can expect to have their contracts terminated.

The strategy also ensures that key strategic contracts have early and timely political input when assessing options and before a decision is taken about the external procurement of the services. Gateway zero decisions will include challenging whether services should be procured externally at all or if we could achieve better outcomes with an in-house service as we have done with our in-sourcing of customer services and the revenue and benefit service.

Our contracts also present an opportunity for added social value, when our contractors are able to provide additional benefits, at little or no additional cost. Whilst we are flexible and open to bidder's proposals of what added value they can offer, we are of course particularly seeking social value offers that help us to achieve our fairer future promises and commitments such as local employment and apprenticeship opportunities. In the coming months we will be piloting a new tool that we hope will assist us in assessing the value of these proposals in relation to our fairer future priorities and to better monitor the delivery of social value within contracts.

I'd like to thank all the members of overview and scrutiny committee whose 2015 report was the genesis of this Strategy and many of the new commitments within it. I hope that it will live up to their ambitions and help deliver our shared ambition of a Fairer Future for All in Southwark.

Our Fairer Future Promises

1. Value for money: We will continue to keep council tax low by ensuring that all our high quality services offer value for money.
2. Access to health for all: We will provide free swimming and gyms for all residents. We'll double the number of NHS health checks. And we'll extend bike hire across the borough.
3. Quality affordable homes: We will improve housing standards and build more homes of every kind, including 11,000 council homes - with 1,500 built by 2018. We will make all council homes warm, dry and safe. And we will start rolling out our kitchen and bathroom quality guarantee.
4. More and better schools: We will meet demand for primary and secondary school places. We will drive up standards across our schools, so that 70 per cent of students at every secondary school get five good GCSEs.

5. More and better nurseries and childcare: We will help parents to balance work and family life, by opening two new community nurseries and investing in our children's centres.
6. A greener borough: We will protect our environment by diverting more than 95 per cent of waste away from landfill, doubling the number of estates receiving green energy and investing in parks and open spaces.
7. Safer communities: We will make Southwark safer with more CCTV, estate security doors and a Women's Safety Charter. We will have zero tolerance for noisy neighbours.
8. More education, employment and training: We will guarantee education, employment or training for every school leaver. And we will create 2,000 new apprenticeships and 5,000 more jobs for local people.
9. Revitalised neighbourhoods: We will make our neighbourhoods places that we can all be proud to live in, transforming areas such as Elephant and Castle, Aylesbury and the Old Kent Road.
10. An age-friendly borough: We want you to get the best out of Southwark whatever your age so we will become an age friendly borough including the delivery of an Ethical Care Charter and an older people's centre of excellence.

Introduction

1. The Fairer Future Procurement Strategy sets out how the council's Fairer Future commitments are at the centre of both what and how the spend under contracts can get maximum benefit to our local area, economy and our residents. Specifically the Fairer Future Promise to deliver value for money across all our high quality services, as well as some of our values including "being open, honest and accountable" and "spending money as if it were from our own pocket" are directly part of undertaking procurement projects.
2. The aim of the Fairer Future Procurement Strategy is to provide context and a framework to ensure that the council takes the right steps when:
 - Identifying service needs and options for the ways in which these may be best delivered.
 - Procuring the supplies, services and works where contracting is the preferred option.
 - Managing and monitoring contracts that have been awarded.
3. The Fairer Future Procurement Strategy must be read in conjunction with the council's contract standing orders and procurement guidelines.
4. The council's promise to deliver value for money across all our high quality services underpins all procurement projects and runs throughout the Fairer Future Procurement Strategy. The strategy also covers the following Fairer Future values:
 - Spending money as if it were coming from our own pockets
 - Being open, honest and accountable
 - Making Southwark a place to be proud of

Spending Money as if it were coming from our own pocket

5. The council delivers a wide range of services to all residents, workers and visitors to Southwark.

6. When reviewing service delivery and procuring the council will address the following points:
 - Addressing the need to balance price and quality, and to be explicit about the relative importance of both.
 - To challenge procurement arrangements and seek opportunities to reduce price, improve quality and maximise efficiency.
 - To complete a whole life analysis of options and assessment of risks.
 - To continue joint procurement of services with other councils where such arrangements deliver value for money and improved outcomes.
 - To reduce the costs of procurement process and the time it takes by taking a planned and co-ordinated approach that is efficient, effective and streamlined, avoiding duplication and waste.
 - To ensure existing contracts, frameworks and internal and external procurement options or collaboration opportunities are utilised where appropriate to reduce procurement costs.
 - To deliver value for money across all our service delivery and contracts.
7. The council seeks to operate a mixed economy of service provision with in-house service delivery and ready access to a diverse, competitive range of suppliers providing quality services (including small firms, social enterprises, minority businesses, and voluntary and community sector groups), and wherever possible encourage local sourcing and local employment.
8. Critically assessing our business needs, from a make or buy decision, to challenging the specified levels of service or identifying possible process efficiencies are precursors to the procurement planning process and ensuring that any possible contract delivers best value. It is important that projects give enough attention and time to plan, in order to take up opportunities that are available to ensure best value is secured.
9. As part of the “make or buy” option, genuine consideration of in-house service delivery is part of the planning process and explicit consideration of whether the works, goods or services could be provided in-house must be included when developing the procurement strategy.
10. The council has a good record of bringing previously outsourced services in-house as in-house provision will not always secure service improvements or value for money for operational, statutory or business reasons and in such cases it will be necessary to contract with suppliers. Where contracting with external suppliers is selected for providing services, the procurement strategy (gateway one report) must demonstrate how this will be successful in meeting defined service objectives and the commitments of the council plan, and how it will achieve long term value for money.
11. In accordance with our Fairer Future values, the council will seek to exercise good governance in the procurement process. This will include:
 - Ensuring all procurement practices are legal, ethical and transparent, conforming to procurement legislation and regulation and robust enough to meet the challenge of external scrutiny.
 - Applying appropriate governance arrangements to meet the principles of openness and accountability, and to manage risk.
 - Having clear, unambiguous and sufficiently flexible operational arrangements that respond to service needs, reduce red tape and protect statutory and regulatory responsibilities of the council.
 - Promoting the commitment of suppliers to the prevention and detection of fraud and corruption in their processes.

Strategic Assessment

12. This Fairer Future Procurement Strategy introduces a new strategic assessment (gateway zero) for services above £10m in value (excluding capital investment works). This assessment will be for cabinet members (IDM) decision making and will ensure that key strategic contracts have early and timely political input when assessing all options and before a decision about the external procurement of the services.
13. The strategic assessment by the service head will address the relevant factors in a timely manner to allow a full strategic options assessment. The timing of the review will be influenced by factors including: decisions to in-source, new outsourcing decisions, services provided to vulnerable people, the nature of the organisation to be awarded work, and the length or conditions of the contract.
14. The review by the service head should explore all options and makes the case for the preferred mode of delivery (e.g. in-house, private sector, voluntary or community sector, shared service), as well as considering the broad methods by which a service is to be delivered (e.g. single provider/framework of providers etc.) as well as possible social value.
15. The strategic assessment decisions will be included on the forward plan and cabinet members will attend pre-scrutiny sessions on request from OSC. A strategic assessment may also be requested for other contracts by the relevant cabinet member.

Being Open, Honest and Accountable

Protecting the workforce

16. Where the council renews contracts or outsources services to the private or voluntary sector the following workforce issues must be considered and applied on a case by case basis as allowed by EU procurement, local government and other relevant legislation and as provided by relevant council policy, including:
 - Pension provision
 - The transfer and treatment of staff under TUPE
 - Terms and conditions including sick pay, training and provision of equipment
 - Consideration of trade union recognition
 - Early consultation with trades unions before possible outsourcing of services
 - Gender pay gap and payment differential
 - Southwark Ethical Care Charter (in relation to care contracts)

Equalities and Community Impact

17. The council must have due regard to equality issues and community impact under its Public Sector Equality Duty. The council's Approach to Equality policy sets out how equality and human rights considerations will be embedded into our policies on procurement and commissioning. All Gateway zero strategic assessments and Gateway 1 reports setting out the procurement strategy must show that all relevant equality issues and obligations are taken into account and planned throughout both the procurement process and in the delivery of those functions on behalf of the council.

Diversity Standard

18. Where the council does renew contracts or outsource services, prospective suppliers must sign up to the council's Diversity Standard. It sets out the policies and expectations for ways of working when delivering contracts that protect the workforce delivering on behalf of Southwark Council. These include:

- Requirement for an offer of guaranteed hours (zero hour contracts)
- Payment of London Living Wage (where appropriate).

Blacklisting

19. Blacklisting is where employers and recruiters discriminate against individuals based upon trade union membership or activity. This is prohibited by law. All relevant tenders shall include relevant questions relating to any prior blacklisting activity and shall exclude any organisation that cannot satisfy the council's commitment to only doing business with suppliers who meet minimum statutory and ethical standards, in line with best procurement practice. Contracts for public works will include provisions to provide for the termination of the contract if the provider is proved to engage in blacklisting activities during the course of that contract.

Governance

20. The council has an established gateway process as part of governance process set out in Contract Standing Orders:
- Gateway one report – Procurement Strategy
This assesses the options for delivery of needs and makes a recommendation for the best route to market to deliver the contract
 - Gateway two report – Contract Award Recommendation
This sets out the recommended supplier/s to award of contracts to who have been assessed as offering best value for money from the procurement process following the evaluation process.
21. This approach will be continued using the e-procurement system to deliver our procurement projects and the system will also enhance the ability to record contract management and monitoring.

Engagement

22. The cabinet were asked to further enhance engagement with members in respect of contracts or purchases with an estimated value of £100,000 or more through the introduction of a requirement to consult with the relevant cabinet member before a procurement strategy is implemented. This will be formalised through inclusion in contract standing orders

Making Southwark a place to be proud of

Social Value

23. A key opportunity for the council as part of its commitment to getting the most of its spend with external organisations through contracts is to focus on the possible additional value linked to the contractual spend that benefits the local area, economy and health and wellbeing of residents. This has been termed "social value".
24. The council has an obligation under the Public Services (Social Value) Act 2012 to consider what social value could be obtained during a procurement process for all service contracts that are subject to the Public Contract Regulations 2015. The Act offers an important opportunity to achieve more from the council's spending on services. Southwark Council will go beyond the narrow focus of the legislation and consider what social value can be delivered during the development of all procurement strategies (gateway one reports).

25. When considering the additional benefits and social value to be delivered, this must support the social, economic or environmental well-being of Southwark and its residents and specifically support the delivery of the council's Fairer Future commitments and policies. Key areas of social value commitments include:
- Apprenticeships
 - Job creation
 - Work placement opportunities
 - Payment of London Living Wage where appropriate
 - Environmental and sustainability considerations
 - Health and wellbeing considerations
 - Requiring suppliers to comply with the council's Safer Lorries, Safer Cycling Pledge including the Fleet Operator's Recognition Scheme at Gold standard where appropriate
26. The tender process should set out clearly the methodology for evaluating social value during the procurement process and directly link this to the Fairer Future commitments. The evaluation methodology for each tender should be assessed on a case by case basis and the weightings should reflect the relative importance of the social value element to the subject matter of the contract and be proportional to this.
27. The achievement of social value commitments from proposed successful tenderers should be set out in the contract award recommendation (gateway two report). These commitments should form part of the contract's key performance indicators and be monitored and reported on as part of best practice contract management, as well as in performance reports to departmental and corporate contract review boards as required.

Developing staff

28. The council will continue to develop the skills of staff, including:
- promoting staff competencies in procurement, commissioning and contract management
 - ensuring that all procurement activity is undertaken by informed managers supported by professional procurement staff, providing specialist support and advice.
 - utilising e-procurement facilities to deliver process and procurement savings.
 - providing high quality guidance, support, documentation and awareness sessions for service managers and their staff engaged in procurement processes.
 - improving contract management by continuously improving and learning from experience of 'relationship management'.

Document ends

APPENDIX 2

Examples of Blacklisting Evaluation Criteria

Declaration to be included in the Form of Tender for GC/Works and JCT construction contracts covering blacklisting and anti-collusion:

15. Please indicate if currently, or within the last three years, you have, or have been, a party to any scheme or arrangement under which:

		Yes	No
(a)	You communicate the amount of your tender to any other person or body before the contract is let;		
(b)	Any other tenderer for the works is reimbursed any part of their tendering costs		
(c)	Your tender prices are adjusted by reference directly or indirectly to the prices of any other tender for the works		
(d)	A blacklist (as defined by the Employment Relations Act 1999 (Blacklists) Regulations 2010) operates.		

Any Tenderer that answers "Yes" to paragraph 15 must provide in a separate Appendix a summary of the circumstances and any remedial action that has taken place to effectively "self clean" the situation referred to in that paragraph to the satisfaction of the Employer. The Tenderer shall, as a minimum, prove that it has:

- Paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct;
- Clarified the facts and circumstances in a comprehensive manner by actively collaborating with investigating authorities; and
- Taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct.

The measures taken by the Tenderer shall be evaluated by the Employer taking into account the gravity and particular circumstances of the offence or misconduct. If such evidence is considered by the Employer (whose decision shall be final) as sufficient, the Tenderer concerned shall be allowed to continue in the procurement process. Where the measures are considered by the Employer to be insufficient, the Tenderer shall be given a statement of the reasons for that decision.

Item No. 16.	Classification: Open	Date: 7 June 2016	Meeting Name: Cabinet
Report title:		Gateway 1 - Procurement Strategy Approval: Contractor Services for the Delivery of Commercial Way New Homes Delivery	
Ward(s) or groups affected:		Livesey	
Cabinet Member:		Councillor Mark Williams, Regeneration and New Homes	

FOREWORD – COUNCILLOR MARK WILLIAMS, CABINET MEMBER FOR REGENERATION AND NEW HOMES

Southwark Council is tackling the housing crisis head-on with our ambitious programme to build 11,000 new council homes with 1,500 completed by the end of 2018. This report sets out the procurement route for new council and intermediate homes on Commercial Way, all of the new council homes will be let at council rents on council tenancies. In line with all other new council homes we are building across the borough half of all the new homes will be reserved for tenants who live in the neighbouring area who have a housing need. This will allow local residents to directly benefit from the new homes and maintain their local social, childcare and family connections.

In line with all other procurement on new council homes this report sets out that the successful appointee will have to pay at least the London Living Wage, employ local apprentices, and to not take part in blacklisting, or if they have previously blacklisted to have ‘owned up, paid up, and cleaned up’. The designs for this scheme are currently being consulted on with local residents and a planning application will be submitted shortly.

RECOMMENDATIONS

Recommendation for the Cabinet

1. That cabinet approves the procurement strategy to undertake an OJEU tendering process for one of the New Homes Delivery Phase 2 sites (as noted in paragraphs 3) – Commercial Way (two sites bordering Cronin Street). The total estimated construction works contract sum of the project is £16,735,230. It is estimated that the length of the individual build contracts will be for approximately 18 to 24 months.

Recommendation for the Leader of the Council

2. That the leader of the council agrees to delegate the Gateway 2 decision for Commercial Way to the chief executive for the reason outlined in paragraph 28.

BACKGROUND INFORMATION

3. This procurement strategy relates to the procurement of the construction works contract for Commercial Way, which is part of the council’s programme to build 11,000 new homes. The initial target of which is to build 1,500 new homes by 2018.

4. This report forms part of a larger procurement strategy for the next phase of the New Homes Programme.
5. The New Homes Delivery Programme is aimed at creating new homes from existing council assets.
6. The principle of New Homes Delivery was agreed in July 2012, with phase 2 of the New Homes Delivery Programme approved in October 2013.
7. This approval will deliver a total of 112 new homes at an estimated works cost of £16,735,230 and estimated total on costs of £3,362,363. The on costs include:
 - a. Architects Fees
 - b. Employer Agent Fees
8. The architect / employers agent role has been previously tendered using the Hyde and Peabody approved framework and was approved in a Gateway 2 report in November 2015.

Summary of the business case/justification for the procurement

9. The council has committed to the delivery of 11,000 new homes programme by 2043. The initial target is to build 1,500 new homes by 2018. This procurement exercise will build on the progress made to date and enable the progression of a further 112 new homes.
10. This procurement process will secure the works contracts on a design and build fixed price basis. This route is preferred to a traditional building contract route because:
 - a. It is likely to be significantly quicker than a traditional building contract route and allow the council to hit its delivery targets
 - b. It will allow the council to mitigate a number of risks, including cost increase and other unforeseen issues
 - c. It is likely to be more competitive in terms of costs, as the contract will allow the contractor the flexibility of using alternative build solutions, whilst ensure that the specification, planning obligations and core design principles are adhered to

Market considerations

11. This is the largest of the phase 2 sites and likely to be attractive to national contractors, and therefore our tendering process needs to reflect this by ensuring that the appropriate building contractors are targeted.
12. The construction industry appears to be quite buoyant at the moment and tender prices appear to be rising. The fixed lump sum tender process will ensure that the council give more contractors an opportunity to tender and achieve value for money in a competitive market place.

KEY ISSUES FOR CONSIDERATION

Options for procurement route including procurement approach

13. The procurement options available are:

- a. Use of an existing procurement framework
 - b. OJEU tender as individual projects
14. The contractors for phase 1 of the New Homes Delivery Programme was procured through the Improvement and Efficiency South East (iESE) consultancy and contractor framework, which assists local authorities in the south east of England to deliver capital projects collaboratively and with improved efficiencies.
 15. The iESE process is a two stage open-book Design & Build contracting route to deliver mains works packages This framework initially offered a quick route for the Council to develop new homes. However, it is now felt that this approach has been too drawn out on the early projects and a more defined and shorter process should be adopted for future projects. The council New Homes Delivery Programme should be supported by a range of procurement routes to ensure the targets are met within the set deadlines.
 16. The other concern with the iESE is that there is a limited number of contractors on these frameworks and they often exclude medium size and local contractors.
 17. It is felt that these projects would benefit from a procurement route that results in a fixed price contract and that allows a more competitive process with the appropriate risks offset to the contractor, as this may offer better value for money.
 18. Other frameworks available for the council to use include: London Construction Panel (LCP), London Development Panel (LDP), and the Scape Framework. However, it is not believed that these frameworks for this project will address any of the concerns of using the iESE.
 19. Ensuring that LBS get the balance between quality, value for money and efficiency in terms of delivery, in the first instance, is about selecting the right contractor for the right project.
 20. It is proposed that each project will be individually tendered through an OJEU tender process.
 21. The tender process will begin once the architects have completed the stage D+ drawings. This will ensure that aspects of quality in terms of the design will be captured and that the provisional sums in the contract will be limited. This means that we will be tendering prior to receiving planning permission and there is a risk that contractors may prioritise other tenders that have planning permission in place.

Proposed procurement route

22. This procurement will be carried out in accordance with an EU restricted procedure, the process will be a 2 stage process, which will entail an open Expression of Interest through a Pre-Qualification Questionnaire (PQQ) followed by an Invitation to Tender (ITT). Paragraph 37 provides further detail on the PQQ and paragraph 39 provides further detail on the ITT.
23. In response to the OJEU notice, companies interested in tendering will be required to formally express an interest in order to receive a Pre-Qualification Questionnaire (PQQ). A minimum of 5 organisations will be selected for the tender list, subsequent to the PQQ process. This will meet EU restricted procurement process.

Identified risks for the procurement

	Identified Risk	Likelihood	Risk Control
1	Insufficient interest from contractors.	Low	A soft market approach to contractors will be engaged.
2	Quality of submitted tender proposals do not meet the Councils expectations	Low	The council will ensure that comprehensive project briefs that are clear and without ambiguity are produced.
3	Cost proposed do not deliver value for money	Low	The council have undertaken all necessary surveys and developed a cost plan that identifies any associated risk, and a detailed specification will form part of the tender pack.
4	Challenges to procurement outcome	Low	Ensure robust procurement in line with EU procurement regulations.

Key /Non Key decisions

24. This is a key decision.

Policy implications

25. The new homes delivered through the New Homes Delivery Programme are in line with the council's principles and vision for a new housing strategy which is aimed at increasing the availability, affordability and quality of homes in the borough.
26. The new homes will play a key role in assisting the council achieving the target of building 11,000 new council homes by 2043 and 1,500 by 2018.
27. The long term housing vision for the borough (agreed by cabinet in January 2014) sets a clear policy direction for the council that directly impacts the delivery of the new homes set out in this report. The vision comprises four overall principles:
- The council will use every tool at our disposal to increase the supply of all kinds of homes across Southwark.
 - The council will demand the highest standards of quality, making Southwark a place where you will not know whether you are visiting homes in private, housing association or council ownership.
 - The council will support and encourage all residents to take pride and responsibility in their homes and local areas.
 - The council will help vulnerable individuals and families to meet their housing needs and live as independently as possible.

Procurement Project Plan (Key Decisions)

Activity	Complete by:
Enter Gateway 1 decision on the Forward Plan	18/02/2016
DCRB Review Gateway 1	04/04/2016

Activity	Complete by:
CCRB Review Gateway 1	18/04/2016
CMT Review Gateway 1 (if applicable)	N/A
Notification of forthcoming decision - Cabinet	24/05/2016
Approval of Gateway 1: Procurement strategy report	07/06/2016
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	14/06/2016
Issue Notice of Intention (Applies to Housing Section 20 Leaseholder consultation only)	N/A
Completion of tender documentation	14/06/2016
Publication of OJEU Notice	01/07/2016
Publication of Opportunity on Contracts Finder	02/07/2016
Closing date for receipt of expressions of interest	07/08/2016
Completion of short-listing of applicants	31/08/2016
Invitation to tender	01/09/2016
Closing date for return of tenders	15/10/2016
Completion of any clarification meetings/presentations/evaluation interviews	n/a
Completion of evaluation of tenders	15/11/2016
Forward Plan (if Strategic Procurement) Gateway 2	01/11/2016
DCRB Review Gateway 2:	21/11/2016
CCRB Review Gateway 2	24/11/2016
CMT Review Gateway 2 (if applicable)	n/a
Notification of forthcoming decision	10/12/2016
Approval of Gateway 2: Contract Award Report	10/12/2016
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	17/12/2016
Debrief Notice and Standstill Period (if applicable)	02/01/2017
Contract award	03/01/2017
Add to Contract Register	03/01/2017
TUPE Consultation period (if applicable)	n/a
Place award notice in Official Journal of European (OJEU)	03/01/2016
Place award notice on Contracts Finder	03/01/2016
Contract start	03/01/2016
Initial contract completion date	06/12/2018
Contract completion date – (if extension(s) exercised)	n/a

28. This report is seeking approval from the leader of the council to delegate the Gateway 2 decision to the chief executive. Seeking cabinet approval for Gateway 2 is likely to add at least another 4 to 6 weeks to the timeframes set out in the procurement plan above; therefore we are seeking delegation to the chief executive.
29. The new homes delivery team will be looking to procure contractor services for a total of 13 sites in the summer of 2016. The tendering for each site is likely to be separate, as the planning approvals for each of the schemes are likely to be staggered and the scheme have different Employers Agents. It is highly likely that the procurement processes for each scheme will run concurrently or overlap. The tendering processes will be co-ordinated by the Employers Agents, however the new homes delivery team will need to ensure that the necessary staff resources are available.

TUPE/Pensions implications

30. Not applicable.

Development of the tender documentation

31. An Employers Agent has been appointed, who as part of their role, will undertake the OJEU tender process for their schemes.
32. The Housing Supply / Investment Strategy Managers and Project Co-ordinators in the New Homes Delivery Team will work with the Employers Agent to develop the tender documentation, the PQQ and the quality and pricing evaluation methodologies.
33. The tender documents will consist of the proposed Design and Build Contract, Employers Requirements, drawings, surveys / reports and site information, Pre-Construction Information Pack (PCIP), ITT, contract amendments, evaluation criteria, pricing schedules, relevant surveys and any other supplementary information.

Advertising the contract

34. The contract will be advertised by way of an official notice that will be published in the official Journal of the European Union (OJEU).
35. After publication of the OJEU notice the contract will be advertised on Contract Finder.

Evaluation

36. The contract will be awarded on the basis of MEAT (most economically advantageous tender) using a price/quality ratio of 70/30 in line with council guidelines. As per the restricted protocol, the process will consist of two stages.

Stage One – Pre-Qualification Questionnaire (PQQ)

37. The purpose of the PQQ is to create a short list of organisations who have demonstrated that they have sufficient technical capacity and financial and economic standing and ability to be invited to tender. In order to determine sufficient

financial and economic standing, and technical capacity and ability, PQQs will be evaluated in accordance with the criteria as set out in Articles 29 of Directive 92/50/EEC (as amended or replaced).

38. Method statements will be used to assess the technical section, for which there will be a minimum pass mark. The short listing process will include an assessment of capacity. The financial, health and safety and equalities sections will be assessed as pass or fail.

Stage Two - Invitation to Tender

39. The Quality Assessment will be undertaken through the provision of method statements which will be used to evaluate applicants against the key quality criteria, for which there will be a minimum pass mark for each question.
40. The quality assessment will include:
- a. Programme Management
 - b. Time Requirements
 - c. Staff Resources
 - d. Health and Safety
 - e. Quality Assurance Systems
 - f. Risk Management.
41. For the Price Assessment the contractors will be asked to cost plan detailing the contract sum, qualifying any provisional sums that are included. An appropriate scoring mechanism for the pricing will be applied.
42. The submitted tenders will be evaluated and scored by a panel made up of the Employers Agent, Housing Supply / Investment Strategy Managers, and Project coordinators.
43. The Employers Agent will submit a Tender and Value for Money Report with the conclusion reached by the panel.

Community impact statement

44. Southwark is a borough with high levels of deprivation, low income levels and high levels of housing need. Southwark's Housing Strategy 2009-16 identified that there is a shortage of affordable housing in the borough, particularly of larger homes. Households from black and ethnic minority communities tend to be over-represented among those living in overcrowded, poor quality housing.
45. Cabinet recently agreed a new vision for the future housing strategy including a principle to use every tool at our disposal to increase the supply of all kinds of homes across Southwark.
46. The proposals to increase the supply of affordable, good quality homes will benefit households in need from all Southwark communities, and will increase the housing options available for older people and people with disabilities.
47. Those households in the vicinity of the new developments may experience inconvenience and disruption in the short term whilst works are taking place but such communities will benefit in the longer term from the provision of new homes.

Particularly as 50% of these homes will be let to existing tenants from the local area subject to an agreed local lettings policy.

48. Local residents will continue to be consulted at each stage of the development proposals as outlined in the Charter of Principles agreed by cabinet in November 2014.

Public Services (Social Value) Act 2012

49. The Public Services (Social Value) Act 2012 requires the council to consider a number of issues including how what is proposed to be procured may improve the economic, social and environmental well-being of the local area. These issues are considered in the following paragraphs which set out economic, social and environmental considerations.

Economic considerations

50. The design briefs for the new homes will be developed in consultation with the 'user client' officers and make it clear that the council is seeking developments that are not only attractive and functional in their design but also durable and easy to maintain with low running costs.
51. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. It is expected that payment of the LLW by the successful contractor for this contract will result in quality improvements for the council. These should include a high calibre of multi-skilled operatives that will contribute to the delivery of works on site and will provide best value for the council. It is therefore considered appropriate for the payment of LLW to be required. The successful contractor will be expected to meet the LLW requirements and contract conditions requiring the payment of LLW will be included in the tender documents. As part of the tender process, tenderers will also be required to confirm how productivity will be improved by payment of LLW. Following award, these quality improvements and any cost implications will be monitored as part of the contract review process.
52. We will be seeking the appointed contractor to participate in a local employment and training initiative. The initiative will generally conform to any Local Government policy including requirements set-out by the HCA and/or GLA that generally will encompass the Contractor, wherever possible, being encouraged to employ local subcontractors and labour and shall involve the training and employment of local people. Such employment and training will be relevant to the needs of the local community.

Social considerations

53. The new housing will provide high quality affordable housing for local people in need of accommodation. 50% of these homes will be made available to existing tenants in need based on an agreed local lettings policy. The remainder will be made available to other households in need of accommodation from the council's housing register.
54. The new rented homes will be let at social rent levels.

55. The council can exclude companies who break the law by blacklisting from public contracts if they are either still blacklisting or have not put into place genuine concerning past blacklisting activities. The council can require "self cleaning" which enables a potential contractor to show that it has or will take measures to put right its earlier wrongdoing and to prevent them from re-occurring and to provide evidence that the measures taken by the economic operator are sufficient to demonstrate it has:
- "Owned Up": clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities
 - "Cleaned Up": taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct, and
 - "Paid Up": paid or undertaken to pay compensation in respect of any damage caused
56. The council is required to use a government standard form of pre-qualification questionnaire which allows for limited amendments. However, this will be amended to include the council's standard preliminary assessment questions relating to blacklisting. The contract conditions will also include an express condition requiring compliance with the blacklist regulations, and include a provision to allow the contract to be terminated for breach of these requirements.

Environmental considerations

57. By investing in high quality and well designed buildings and estates the Council aim to achieve positive impacts which will benefit the environment and increase the stock of environmentally friendly buildings within the borough.
58. As part of the design development process, there will be a requirement for environmental assessments to be completed, with a view to identifying what impact would be caused by any proposed development.
59. The councils approach to procurement of design, development and construction process will ensure a requirement to maintain and improve the sustainability of each tendered project.
60. A low energy, efficient and cost effective building engineering services design that keeps running costs to a minimum will be an essential component of the project brief. Key considerations will include;
- Consideration of whole life-cycle costs
 - Sustainable sourcing
 - Incorporation of environmentally benign heating and lighting provision
 - Provision of facilities and equipment to encourage the re-use and recycling of materials including, where practical, water recycling.
 - Ensuring projects achieve Code of Sustainable Homes criteria or any successor requirement.

Plans for the monitoring and management of the contract

61. The project clienting, including the management and administration of the contractor appointment will be run and resourced through the New Homes Delivery Team in the Asset Management Division of the Housing & Modernisation Department.

Performance of the consultant team will be subject to constant scrutiny and monthly formal review including reviews on cost, quality and programme. The officer client team will use a number of mechanisms for monitoring and controlling the financial and programme performance of the contract, including,

- Strategic cost plan, which will be regularly reviewed and updated
- Monthly financial statements by the consultant
- Monthly appraisals of progress against programme and monthly reports by the consultant
- Tracking and chasing actions on critical issues
- Periodic project team 'look ahead' workshops covering key phases of work and risks
- Risk and issues log.

62. Internal governance arrangements for the programme were reported to cabinet in December 2014. These confirmed that ultimate responsibility for the overall programme resides with the Delivery Programme Board, chaired by the strategic director of housing & modernisation.

Staffing/procurement implications

63. The staff resources deployed to this procurement is sufficient to meet the proposed timetable.
64. The project will be resourced by existing staff, within existing budgets.
65. Officer time relating to the management of this project is funded from the capital budgets for the individual projects.

Financial implications

66. The estimated value of works and professional fees for Commercial Way is £20.1m.
67. This scheme has been run through the New Homes Delivery Team's Development Appraisal Toolkit, which projects the following spend:

2016/17	£2.1 million
2017/18	£8.7 million
2018/19	£9.3 million

68. It is anticipated that 72 units will be for Social Rent and 40 units will be for intermediate rented housing. This will be funded through Right to Buy receipts (30%) and the Section 106 fund (70%).
69. The Right to Buy fund is projected to generate a total of £75.5m up to March 2018 and the Section 106 fund is projected to generate a total of £176.4m up to March 2019.
70. The following table sets out the projected take up of the Right to Buy and Section 106 funds across this and the other approvals being sort (as mentioned in paragraph 5):

	Projected Funds (RTB: Mar 18, s106: Mar 19)	Phase 2 (Under OJEU)	Phase 2 (Over OJEU)	Phase 2 (Cabinet)	Phase 3 (Under OJEU)	Phase 3 (Over OJEU)	Total	Variance
Section 106 Fund	£ 176,451,368	£ 12,256,880	£ 19,053,763	£ 14,068,315	£ 45,057,121	£ 83,631,204	£ 174,067,282	£ 2,384,086
Right to Buy Receipts	£ 75,515,909	£ 5,252,948	£ 8,165,898	£ 6,029,278	£ 19,310,195	£ 33,063,499	£ 71,821,819	£ 3,694,091
Forward Funded Pending Capital Receipts	£ -	£ -	£ 4,248,155		£ -	£ 12,966,078	£ 17,214,233	-£ 17,214,233
Total	£ 251,967,277	£ 17,509,828	£ 31,467,817	£ 20,097,593	£ 64,367,316	£ 129,660,781	£ 263,103,334	-£ 11,136,057

71. It should be noted that the above figures are projections.

Legal implications

72. Please see concurrent from the Director of Law and Democracy.

Consultation

73. Local residents will be consulted at each stage of the proposals as outlined in the Charter of Principles agreed by cabinet in November 2014.

Other implications or issues

74. None.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (H&M16/002)

75. The proposed contract(s) and oncosts are estimated to cost £20.1m, assuming a competitive tendering process.

76. The works are intended to provide 88 dwellings for Council tenants and 24 for intermediate rented housing. New build schemes have the following specific funding sources available:

77. Section 106 – Affordable Housing Fund accumulated from developer funding in lieu of providing affordable housing. This is available, on application to Planning Committee, towards the cost of affordable housing, i.e. the Council tenanted component and retained rental element of shared ownership. Funding is normally limited to 65% of eligible components but may stretch to an effective 70% depending on treatment of land. The fund is dependent on future developer contributions and these may be affected by economic conditions or government policy changes. For these schemes it is estimated that around £13.5m could be applied for from the fund.

78. Right to Buy Receipts. The council has an agreement with government to retain an element of Right to Buy (RTB) receipts towards new build affordable housing. This source can contribute 30% of the costs of the council rented component. This is estimated to provide funding of around £4.5m towards the proposed works.

79. The estimated £18m required are within current projected levels of expected RTB and S106 available. Any balances that cannot be funded from S106 or RTB requires funding from other HIP sources such as general housing capital receipts, which are required also for the wider housing investment programme relating to new build and existing stock.

80. Given recent government policy initiatives and changes to key HRA business planning assumptions, (all of which are detrimental to the council's financial position), there is no clear visibility around long-term resource planning which raises the critical issue of affordability. There remains scope to derive greater benefit from the council's own asset base and a need to explore options for levering-in external funding from government and through joint venture arrangements and alternative delivery models with the public/private sector. Without this, it will be necessary to review existing plans, to re-prioritise, re-phase and extend the programme lifecycle, and in extreme circumstances consider the possible curtailment of programmed activity.

Head of Procurement

81. This report seeks approval of the procurement strategy for the new homes delivery programme, phase 2 Commercial Way site.
82. The report advises that this work is required as part of the overall New homes delivery programme which is aimed at creating new homes from existing council assets.
83. The options for procuring these services have been explored and the report concludes that the most viable option is for the council to carry out a competitive tender process following an EU restricted procedure. The process described in the report is in line with the council's contract standing orders (CSOs) and EU regulations.
84. The report confirms that the evaluation shall be carried out on the basis of the most economically advantageous tender and in determining this shall use a price/quality ratio of 70:30.
85. The report notes that the new homes delivery team intend to procure contractor services for a total of 13 sites in the summer of 2016 and although the tender processes will be separate it is likely that the procurement processes will run concurrently or overlap. It is therefore important that the entire programme is managed meticulously ensuring that appropriate resources are allocated to the projects at the appropriate time. The report confirms that there is a delivery programme board in place to help support successful delivery of these procurements.

Director of Law and Democracy

86. This report seeks the cabinet's approval to the procurement strategy for the New Homes Delivery Phase 2 – Commercial Way site, as further detailed in paragraph 1. As the estimated value of the contract exceeds £15m, then approval of the procurement strategy is reserved to cabinet, after consideration of the report by CCRB.
87. As the estimated contract value exceeds the relevant EU threshold, then this procurement is subject to the full tendering requirements of the Public Contract Regulations 2015, and must be advertised in OJEU or otherwise procured through an EU compliant process. Paragraph 21 confirms the council's intention to procure this contract through an OJEU tendering process.
88. This report also seeks the approval of the leader to delegate the gateway 2 decision to the chief executive for the reasons noted at paragraph 28.

89. The cabinet's attention is drawn to the Public Sector Equality duty (PSED) under the Equality Act 2010, and when making decisions to have regard to the need to eliminate discrimination, harassment, victimisation or other prohibited conduct, and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those who do not share it. The relevant characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion, religion or belief, sex and sexual orientation. The duty also applies to marriage and civil partnership but only in relation to the elimination of discrimination. The cabinet is specifically referred to the community impact statement at paragraphs 44-48 setting out the consideration that has been given to equalities issues which should be considered when approving this procurement strategy.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

Appendix	Title
None	

AUDIT TRAIL

Cabinet Member	Councillor Mark Williams, Regeneration and New Homes	
Lead Officer	David Markham, Director of Asset Management	
Report Author	Phil Purkiss, Development Consultant	
Version	Final	
Dated	25 May 2016	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	25 May 2016	

Item No. 17.	Classification: Open	Date: 7 June 2016	Meeting Name: Cabinet
Report title:		Workforce Data Report	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Peter John, Leader of the Council	

FOREWORD - COUNCILLOR PETER JOHN, LEADER OF THE COUNCIL

Nearly three years ago Cabinet agreed a workforce strategy to support our mission to deliver a fairer future for all in Southwark. This strategy focused on the main employment areas that would help us meet our fairer future promises.

This report provides an update on our progress and contains the annual workforce data report, which provides statistical information on staff and employment activity. It also highlights aspects that require further consideration as we start revising our strategy for the future.

It is clear that we will face further constraints on our services along with ongoing budgetary restrictions, and within this context there are encouraging indicators coming from this report. The measures taken to avoid compulsory redundancies, where possible, are protecting employees, and we maintain a productive and motivated workforce, with low sickness rates, fewer complaints and a high level of retention. We must sustain this commitment in our future plans.

The annual workforce data report provides statistical information on areas of employee activity during the past year. It shows that our workforce is reflective of the local community and that we are meeting our Equality Duties. It also provides a strong indication of the success of our apprenticeship programmes and that our workforce is developing the skills and knowledge that will enable us to deliver innovative and high quality services for all our customers in the future.

RECOMMENDATIONS

That the cabinet:

1. Notes the progress made against the council's workforce strategy 2013-16.
2. Notes the workforce reports attached as appendix one and two and that these reports:
 - a. Demonstrate that the council continues to reflect the diversity of the borough in the makeup of its workforce and the levels of change that have taken place have not impacted negatively on the diversity of the workforce;
 - b. Demonstrate that the council has protected frontline staff despite the level of savings that have been made due to reductions in central government funding;

- c. Suggest a picture of productive and well motivated staff with low levels of sickness, low levels of staff complaints and good rates of staff retention and that this supports the results of the staff survey and the LGA peer review.
 - d. Suggest that the council is an attractive employer given the high numbers of applications that the council receives;
 - e. Will inform the work on the refreshed workforce strategy, suggesting some areas requiring further consideration and action for example in encouraging staff to declare disabilities so that the council can monitor our commitment to employing and retaining staff with disabilities.
3. Notes that a refreshed workforce strategy will come to the 1 November cabinet meeting, which will incorporate actions coming out of this report and will support the delivery of the refreshed council plan.

BACKGROUND INFORMATION

4. In October 2013 cabinet agreed a three year workforce strategy to support implementation of the council's aims and objectives. The strategy is a forward looking view of the council's aims and ambitions in the management of its human resources. It is a dynamic statement, reviewed regularly in light of prevailing circumstances, including the economic climate, to ensure that it remains contemporary.
5. In March 2016 progress against the workforce strategy was reported back to Cabinet. It was agreed that a refreshed strategy will be presented to Cabinet in October 2016.
6. The Equality Duty 2010 is supported by specific duties, which require public bodies to publish relevant, proportionate information annually demonstrating their compliance with the Equality Duty. Information must be published in a way which makes it easy for people to access it and, for public bodies with 150 or more employees, to consider how their activities as employers affect people who share different protected characteristics. The span of information to be published is not specified within the Duty, but it is suggested that the following could be included -
 - composition of the workforce;
 - pay equality issues; in Southwark this is shown by profile at different grades;
 - recruitment and retention rates;
 - learning and development opportunities;
 - grievances and disciplinary issues for staff with different protected characteristics.
7. Published information could also include plans to address equality concerns within the workforce, and information from staff surveys. We address this through the workforce strategy.
8. To meet this requirement, the council produces an annual workforce data report which includes a range of Human Resources (HR) related data. This is published on the council's website.

9. The annual workforce data report provides statistical information on areas of employee activity in the year. The 2015-16 report is attached at Appendix one, and for information the 2014-15 the report is provided at Appendix two.

KEY ISSUES FOR CONSIDERATION

10. The workforce strategy has set out seven key employment related areas to support delivery of the council's fairer future promises:
- Recruitment
 - Resource management
 - Employee development and career opportunities
 - Reward, recognition and support
 - Engagement and communications
 - Identifying and developing leaders
 - Building a workforce for next generation public services.
11. The workforce data report provides some key information to consider within the context of the workforce strategy.

Recruitment:

12. It is essential that Southwark is an employer of choice and we recruit staff of sufficient numbers and talent to deliver our fairer future promises. The workforce report demonstrates that:
- a. Competition for posts is vital to ensure the council is able to appoint the best quality candidates; in 2015/16, the council received more than 9,000 applications for 442 openings, averaging over 20 applications for each opening. This demonstrates that the council is seen as an attractive employer, in spite of the recent cuts to local government.
 - b. The council prides itself on ensuring that all applications are treated equally. In terms of gender and disability, the success of people at different stages of the recruitment process remains proportionate to the percentages of people who applied, were short listed for interview and hired.
 - c. 49% of those recruited are from a BME community. The difference between the percentage recruited from BME communities (49%) and the percentage of BME applicants (64%) is not significant and is explained by the fact that those recruitment exercises with the largest number of applicants tend to be those with the highest number of BME candidates.
 - d. 451 people started work with the Council during the year 2015-16. This number is 52 lower than the previous year when there were 503 new starters.
 - e. Those starting work during 2015-16 have not made any noticeable changes to the profile of our workforce in terms of gender, age, disability or ethnic origin. 60% staff hired during the year are female, 49% are from BME communities, and 5% classified themselves as having a disability. This is comparable with the figures in previous years.
 - f. 81% of advertised posts were recruited to within 3 months. This is lower than our ambition to achieve 90% of posts recruited to within 3 months.

- g. 1.8% of our workforce are apprentices or first entry against a target of 3%.
- h. We will be reviewing recruitment processes and timescales to improve a number of areas in recruitment as part of our revised workforce strategy.
- i. The workforce report shows an increase in the percentage of employees within the age banding of 16 to 24 years old. This can mainly be attributed to the success of our apprentice programme, with many young people entering the programme and moving into permanent employment upon graduation.

Resource Management

13. The council is committed to ensuring we use every penny as if it were our own through striving to do things better. The report shows that:
- a. The council has protected frontline staff from cuts where possible; despite having to make significant savings in 2015-16, there was just a 6% reduction in the workforce in comparison to a much larger reduction in the overall budget. To put that into context, the average London borough now has approximately 2800 staff but Southwark still has more than 4500.
 - b. It is important that the council reflects the diversity of Southwark. In terms of gender, ethnicity, age and disability, the council reflects the borough. For example, 50.5% of Southwark is female and 51% of the council's staff are female. Similarly, 45.8% of Southwark's residents belong to a Black and Minority Ethnic (BME) group and 48% of staff are BME.
 - c. Sickness absence rates showed another decrease this year, with an average of 6.63 days per employee. This reduction exceeds the 5% reduction target set in the workforce strategy and continues to be lower than the average sickness rates across London boroughs, currently 7.5 days per employee. To achieve a reduction during a time of uncertainty and budget reductions is particularly noteworthy, as is the fact that 51% of the workforce had no sickness absence during the year 2015-16.
 - d. The council was formally awarded the Achievement level of the London Healthy Workplace Charter in 2015 after providing detailed evidence against criteria on leadership, health and safety, attendance management, smoking, healthy eating, physical activity, mental health and wellbeing and alcohol and substance misuse.
 - e. Throughout the year a total of 384 people left through the council's voluntary redundancy scheme. Three officers were made compulsorily redundant in the Children's Centres' programme. It should be noted that scheme 3 of the Voluntary Redundancy Scheme is currently open for applications, so further redundancies should be expected up to September 2016.
 - f. Agency workers are not employees of the council, but they are an important part of our resourcing arrangement. There is a continuing year-on-year trend reducing the number of workers on assignment. At its peak in 2010 there were regularly more than 600 agency workers at any given time. The "snapshot" across 2015-16 shows that the number of agency workers on assignment ranged from 327 and 416, this is broadly comparable with the

number and range for 2014-15. At the end of March 2016 7% of the workforce were agency staff.

- g. The number of staff with disabilities fell for the third straight year and is now under the London average 5%. Southwark has been a Two Tick disability employer for the last eight years, recognising our commitment to employing and retaining staff with disabilities. Whilst new employees are encouraged to declare any disability at recruitment, it is recognised that existing employees who become disabled during their employment need to be encouraged to declare their disability.
- h. As a result of enhanced voluntary severance packages being available throughout the year, there has been a very small number of redeployees who have all received a support programme. Going forward we recognise that this may change and we will review the support provided as part of the revised workforce strategy.
- i. The broad ethnic origin of staff leaving the council is balanced with 51% BME staff and 48% white staff leaving, which is broadly similar to the workforce.

Employee development and career opportunities

- 14. The council must develop people's skills and knowledge so that they enjoy productive careers and deliver innovative high performing services and excellent customer care. The council has achieved the following:
 - a. Investors in People awarded Gold status by IIP in August 2015, as recognition of our investment in staff learning and development. Only 14% of the companies awarded Investors in People status achieved the Gold standard in 2015.
 - b. There has been provision of a comprehensive set of training programmes. Over 8,000 training days were recorded across the workforce in 2015-16. This figure shows a 20% increase compared against the 2014-15 figures.
 - c. The proportion of those attending is broadly in line with the profile of our workforce, although less male staff attended training compared to female staff, including the ILM programme. This will be addressed through a number of mechanisms e.g. performance management, developing strategies that encourage learning and development to all staff equally.
 - d. The creation of the Housing Academy in partnership with the Chartered Institute of Housing has had 42 staff (26 apprentices and 16 trainees) undertaking the training programme.
 - e. The Southwark women's network was successfully launched at the beginning of 2016.

Reward, recognition and support

- 15. Pay and non financial rewards are powerful motivators of our staff. They must be fair, seen as fair and robust to external scrutiny.

- a. The performance management scheme links the performance of the employee to the attainment of organisational aims. Under the scheme staff may be recommended for an incremental award on 1 April in each year (until they reach the maximum point of their grade). During April & May 2016 50% of those employees eligible received an increment. This is lower than in previous years, but it should be noted that a final decision on incremental award remains outstanding for a number of staff.
- b. The award of increments agreed to date this year is broadly in line with the profile of the work force.
- c. 76% of staff are in the pension scheme. Auto enrolment will take place for all staff not in the pension scheme in May 2016.
- d. No cost to the council staff benefits including season ticket loans, bike scheme, free gym and swim, childcare vouchers and staff discounts platform continue to be available to staff.
- e. The London Living Wage has been implemented and maintained across the entire workforce.
- f. Market intelligence, performance management and competencies will feature in our revised workforce strategy.

Employee engagement & communication

16. Employees must trust the organisation and be committed to its goals. They must be empowered to believe their views count and will be acted upon. The staff survey, LGA peer review and workforce report demonstrate that:
 - a. As previously reported, the results from the 2015 staff survey showed that the majority of employees (70% of the respondents) are satisfied with their jobs. The majority of staff (66%) would speak highly of the council as an employer and service provider.
 - b. The LGA peer review had positive findings in relation to staff attitude, commitment to addressing inequalities and commitment to the fairer future council plan.
 - c. The workforce report shows a relatively low number of disciplinary investigations and actions across the workforce and there are very few staff complaints. The number of staff subject to disciplinary or capability actions are few and equate to less than 1% of the workforce. These may be considered as indicators that the council has robust and compliant processes in place and that the vast majority of staff have engaged positively with these.
 - d. The number of BME staff subject to disciplinary, capability, complaints and respect at work complaints compared to white staff is broadly in line with the workforce profile.
 - e. The organisation development plan will focus on a number of initiatives regarding employee engagement and communication.

Identifying and developing leaders

17. The council aims to employ and develop managers who can demonstrate the courage, energy and capability to deliver organisational goals, and in partnership with others. With regard to this area:
- a. Our Leadership and Management Development programme offers managers at different levels the opportunity to enhance their skills and knowledge to progress their careers. The programme is endorsed by the Institute of Leadership and Management (ILM). Since the leadership programme commenced in 2014, 137 managers completed the programme in its first year.
 - b. In 2015-16 a total of 156 employees participated on the programme, across three different levels.
 - c. The number of BME staff at JNC level (grade 14 and above) has remained consistent during the year. The figure at year end 2015-16 is 14.6%, slightly lower than the figure of 15.1% at 31 March 2015. It is worth noting that the number of BME leavers (grade 14 and above) leaving on redundancy has reduced the overall number of BME staff at this level.
 - d. Developing a culture with the appropriate attitudes and behaviours to build upon the skills, knowledge and ability of our existing workforce to deliver organisational goals will be part of the revised workforce strategy.

Building a workforce for next generation public services

18. The council aims to draw on the talent and diversity of London communities to create a workforce with the capability and confidence to meet new and challenging demands:
- a. In the year 2015-16 the council engaged 60 new apprentices, the same number as taken on during 2014-15. A further 331 were engaged directly through our supply chain partners (Lend Lease, A&E Elkins, Mears, Saltash, Keepmoat, Capita, Interserve, Conways Aecom, SCCI Alphatrade, and JA Stott Carpentry).
 - b. The Future Leaders Programme has been designed to build the future leadership capability and capacity for the council. There were 42 participants on our “Developing Future Leaders Programme” in 2015-16. Programme members will attain qualifications and develop their career in alignment with future council business needs.

Policy implications

19. Some action points may require amendments to existing HR policy as part of the development of the workforce strategy and will be subject to the appropriate approval process.

Community impact statement

20. Any policy changes will be subject to impact assessments.

Resource implications

21. There are no specific implications arising from this report. Existing resources are already in place to meet the strategic aims. Any actions arising which have resource effects will be subject to separate decision-making process and reallocation within existing budget.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law & Democracy

22. The Director of Law & Democracy (acting through the corporate section) notes the content of the report.
23. The report asks Cabinet to note progress made to the council's workforce strategy which was agreed by Cabinet in October 2013 and updated in October 2014.
24. This is in accordance with Part 3B of our constitution.
25. The Equality Act 2010 (Specific Duties) Regulations 2011 impose on public bodies a specific duty (Specific PSED Duty) to annually publish proportionate equality information in respect of their workforce to demonstrate their compliance with the general Public Sector Equality Duty (General PSED Duty) set out in section 149 of the Equality Act 2010.
26. In producing and publishing the annual workforce reports as appended to this Report the council is meeting that Specific PSED Duty.
27. The PSED General Duty is a continuing one and the proposed refreshed Workforce Strategy referred to in paragraph 4 of the Report will assist the council in complying with that General Duty.

Strategic Director of Finance and Governance

28. The strategic director of finance and governance notes the recommendations in this report. Where the updates to the council's workforce strategy have financial implications, these will be managed within the existing agreed budgets for 2016/17 for the council's general fund and housing revenue account.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
Appendix 1	Workforce Report 2015-16
Appendix 2	Workforce Report 2014-15

AUDIT TRAIL

Cabinet Member	Councillor Peter John, Leader of the Council	
Lead Officer	Gerri Scott, Strategic Director of Housing and Modernisation	
Report Author	Marie Rance, Acting Head of Human Resources	
Version	Final	
Dated	26 May 2016	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law & Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	26 May 2016	

APPENDIX 1



Workforce report 2015-16

This report looks at the profile of employees and at human resources management activities over financial year 2015–16

Scope

1. It covers all departments of the council and directly employed substantive employees. It therefore excludes those under the management of schools.
2. All departmental details will relate to organisational structures as at year end 2015-16.
3. All workforce profile data will be at the end of the year 2015-16.
4. All data related to the outcomes of HR activity will cover the period April 2015 – March 2016, unless stated.
5. For completeness, information is given on the numbers of agency workers engaged. They are an important addition to our workforce resources but do not have a direct contractual relationship with the council and therefore details are limited.

Content

The report –

1. Begins with key data. This includes an overview of employees' profile and some comparative data from previous years.
2. Looks at the profile of the council's employees against each protected characteristic where information is available (gender, ethnic origin, age, disability).
3. Will be discussed with the constituent trade unions.

The report will be published on the council's intranet, (the Source), and the Southwark website; www.southwark.gov.uk

Contents

Please click on the links below

- [Key data - Workforce 2015-16](#)
- [Workforce Numbers & Employee Profiles](#)
- [Changes in the Workforce](#)
- [Performance Management](#)
- [Sickness](#)
- [Learning & Development](#)
- [Disciplinary Investigations & Outcomes](#)
- [Capability Action & Outcomes](#)
- [Staff Complaints](#)
- [Respect at Work](#)
- [Recruitment](#)
- [Agency Workers](#)

[Appendix 1 Information on the community in Southwark & other London Boroughs](#)

Key data - Workforce 2015 - 16

The details below pull out some key information from the report that follows about the workforce. It aims to provide a quick reference and to give context by looking at details from previous years where comparisons can be made.

Year 2015-16			Context																										
Number of employees (headcount)			Number of employees																										
4538			<table border="1"> <thead> <tr> <th>Year</th> <th colspan="2">No.</th> </tr> </thead> <tbody> <tr> <td>Year 2015-16</td> <td colspan="2">4538</td> </tr> <tr> <td>Year 2014-15</td> <td colspan="2">4847</td> </tr> <tr> <td>Year 2013-14</td> <td colspan="2">4814</td> </tr> </tbody> </table>			Year	No.		Year 2015-16	4538		Year 2014-15	4847		Year 2013-14	4814													
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Year 2014-15	4847																												
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Gender Profile of Employees			Gender Profile																										
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Male	2204	49%																											
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Year 2013-14	52%																												
Broad Ethnic Profile			Broad Ethnic Profile																										
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Year 2013-14	44.9																												

Section 1: Workforce Numbers & Employee Profiles

1. The headcount of employees was 4538. This excludes casual workers and non staff resources such as agency workers. A workforce population of 4538 is a reduction of 6% of employee numbers in 2014-15. (*Key Data*). It is significantly higher than the average workforce in London boroughs which in 2014-15 was 2830 (*Appendix 1*).
2. Employees in the three service departments make up 81% of the council's workforce (Children's & Adults; Environment & Leisure; Housing & Modernisation). (*Reference data 1*)
3. The highest percentage of part time employees is in Children's & Adults' Services. Overall 14% of all employees work part time. (*Reference data 2*)

Reference data 1

Employee numbers by department

	Numbers (headcount)	% of total
Chief Executive's Department	212	5%
Children's & Adults Services	1335	29%
Environment & Leisure	1352	30%
Finance & Governance	625	14%
Housing & Modernisation	1014	22%
Total	4538	100%

Reference data 2

Distribution of full time & part time employees per department & Council wide

	Male		Female	
	Full-time	Part-time	Full-time	Part-time
Chief Executive's Department	48.6%	1.4%	42.5%	7.5%
Children's & Adults Services	22.6%	3.4%	55.8%	18.2%
Environment & Leisure	72.6%	3.7%	17.2%	6.5%
Finance & Governance	39.7%	1.4%	50.7%	8.2%
Housing & Modernisation	43.8%	1.8%	45.4%	9.1%
Total	45.8%	2.8%	40.6%	10.8%

Gender

4. The percentages of female and male employees are similar; 51% of employees are female; 49% are male. (*Reference data 3*). The gender split shows a small change (1%) from the previous year, (*Key Data*). The gender breakdown in council employment is similar to the female population in Southwark (50.5%) and is lower than the average across London boroughs (60.04%). (*Appendix 1*)
5. There are significant differences in the gender breakdown when looking at a departmental level. (*Reference data 3*)
6. There are higher percentages of male employees than female employees in the grades 1-5, in Building Services, and in the higher grade bands. Although the total numbers of employees grade 14 and above are relatively small (*Reference data 4*)

Reference data 3

Gender breakdown per department as percentages

	Female	Male
Chief Executive's Department	50%	50%
Children's & Adults Services	74%	26%
Environment & Leisure	24%	76%
Finance & Governance	59%	41%
Housing & Modernisation	54%	46%
Total	51%	49%

Reference data 4

Grade distribution, gender and disability

Grade band	Total	Female	Male	Disabled staff
Grades 1-5	1144	359	785	21
%	100%	31%	69%	2% ¹
Building Workers	82	2	80	2
%	100%	2%	98%	2% ¹
Grades 6 - 9 or equivalent	1775	1062	713	76
%	100%	60%	40%	4% ¹
Grades 10-12	880	469	411	27
%	100%	53%	47%	3% ¹
Social Work	335	262	73	14
%	100%	78%	22%	4% ¹
Grades 14-16	195	92	103	7
%	100%	47%	53%	4% ¹
Grades 17 & above	19	7	12	
%	100%	37%	63%	
Teacher conditions	14	11	3	
%	100%	79%	21%	
Solbury conditions	43	35	8	
%	100%	81%	19%	
Other²	51	35	16	1
%	100%	69%	31%	5% ¹
Total	4538	2334	2204	148

¹ Percentage in that grade band² TUPE conditions (various)

Disabilities

7. The percentage of people with disabilities, 3.3%, has reduced by 0.5% compared to the previous year (*Key Data*). There are some significant differences between departments. (*Reference data 5*)
8. Southwark records actual employee declarations of a disability. Since the introduction of the Disability Discrimination Act when the use of strict externally set criteria to determine “disability” ceased; self declaration is appropriate. It is known that some other boroughs determine the disability average by extrapolating from survey data or use sickness absence rates as a marker. This is not our preferred approach. The average across London boroughs is 5%, (*Appendix 1*).
9. The percentages of employees with disabilities are lowest in grades 1-5 and those on Building Worker grades. There are some grade bands where there are no staff with a declared disability. This applies to those grade bandings where numbers of staff are few. (*Reference data 4*)

Reference data 5

Staff with disabilities as percentage of departmental numbers

	Disabled
Chief Executive's Department	1.9%
Children's & Adults Services	3.7%
Environment & Leisure	1.9%
Finance & Governance	4.0%
Housing & Modernisation	4.2%
Total	3.3%

Ethnic Origin

10. There are a small number of employees who do not have an ethnic origin record, 30 employees (less than 1%), this compares with an average of 8.45% across London boroughs who do not have an ethnic origin (*Appendix 1*). Those with no ethnic origin data recorded are predominately people who joined the council under TUPE agreements. (*Key data*).
11. There is no significant change in the percentages of employees who classify themselves as “White” and from black and minority ethnic groups compared to the previous year. (*Key Data*).
12. When looking at broad ethnic groups the percentages of employees from White and from BME communities are very similar to the percentages in the Southwark community. Where 54% of the population classify themselves as White. (*Appendix 1*). Across London boroughs those employees who classify themselves as White average 63.4%, (*Appendix 1*).
13. The percentages of White employees compared to BME employees change significantly through the grades. Putting aside those in Building Worker grades; up to grade 9 there are higher percentages of BME staff than percentages of White staff. This changes at grades 10-12 and the percentages of BME employees are low in grades 14 and above. (*Reference data 7*)

Reference data 6

Broad ethnic origin of employees as percentage of departmental numbers

	Asian	Black	Mixed	Other	<i>BME employees</i>	White
Chief Executive's Department	7%	19%	3%	4%	33%	67%
Children's & Adults Services	6%	38%	4%	2%	50%	50%
Environment & Leisure	3%	31%	3%	3%	40%	60%
Finance & Governance	7%	34%	3%	3%	48%	52%
Housing & Modernisation	6%	44%	5%	3%	59%	41%
Total across the council	5%	36%	4%	3%	48%	52%

Reference data 7

Grade distribution, broad ethnic origin

Grade band	Asian	Black	Mixed	Other	BME employees	White	Not Stated	Total
Grades 1-5	49	472	44	39	611	533	1	1144
% ¹					53%	47%		
Building Workers		27		2	29	53		82
% ¹					35%	65%		
Grades 6 - 9 or equivalent	128	758	61	53	1000	750	25	1775
% ¹					57%	43%		
Grades 10-12 +SW's	52	330	53	36	471	742	2	1215
% ¹					39%	61%		
Grades 14-16	7	16	3	3	29	164	2	195
% ¹					15%	85%		
Grades 17 & above		1	1		2	17	0	19
% ¹					11%	89%		
Teacher conditions		1	1	2	4	10	0	14
% ¹					29%	71%		
Solbury conditions	3	2		1	6	37	0	43
% ¹					14%	86%		
Other ²	6	12	2	3	23	28	0	51
% ¹					45%	55%		
Total	245	1626	165	139	2175	2333	30	4538

¹ Excludes those where ethnic origin not supplied.

² TUPE conditions (various)

Age

14. The average age of employees is 45.1 years. (*Key Data*). This is similar to the average age across London boroughs which is 45.6 years, (*Appendix 1*).
15. Predominately employees are in the 40-54 years banding (45%). (*Reference data 7*)

Reference data 7

Employees per age band as percentage of total workforce numbers

	%
16 to 24	4%
25 to 39	30%
40 to 54	45%
55+	20%

Length of Service

16. Employees' length of service is on average 9 years. This suggests no retention issues. It must be noted however that the average service will be impacted by the large percentage of employees who have over 20 years service. (*Reference data 8*)

Reference data 8

Employees' length of service & service bandings - total workforce numbers

Average (mean) length of service	9 years
Length of service – bands	% of employees
Less than 1 year	7%
1 to <2 years	7%
2 to <3 years	7%
3 to <5 years	9%
5 to <10 years	24%
10 to <15 years	20%
15 to 20 years	8%
20+ years	17%
Total	100%

Section 2: Changes in the Workforce Starters

1. Based on the existing workforce there were 451 people who had started work with the council within the year. The table below shows the person's department at the end of the financial year not necessarily the department at commencement. (*Reference data 9*)
2. As noted in the previous section; those starting during this period have not resulted in any notable changes to the profile of the workforce in terms of gender, age, disability or ethnic origin (*Key data*).

Reference data 9

Number of starters & department

	Numbers starters (headcount)
Chief Executive's Department	25
Children's & Adults Services	189
Environment & Leisure	112
Finance & Governance	43
Housing & Modernisation	82
Total	451

Leavers

3. This section provides a detailed look at the reasons why people leave the organisation and their profile.
4. The dominant reasons for people leaving were on a voluntary basis, i.e. voluntary redundancy, resignation, career breaks, retirement age. Other reason attracted relatively small numbers of employees.
5. Further scrutiny of those who left on the basis of dismissal; discipline or capability, appears in the relevant sections later in this report.

Reference data 10

Leavers by reason, gender and disability

Reason for Leaving	Number	Female %	Male %	Total	Of those disabled %
Career Break	8	88%	13%	100%	0%
Deceased	8	63%	38%	100%	0%
Dismissal – Capability	5	20%	80%	100%	0%
Dismissal	15	13%	87%	100%	7%
Expiration of Contract	41	41%	59%	100%	5%
Redundancy	384	63%	37%	100%	9%
Resignation	272	57%	43%	100%	3%
Retirement Age	31	26%	74%	100%	10%
Retirement Early	2	0%	100%	100%	0%
Retirement Ill Health	8	63%	38%	100%	13%
Total	775	57%	43%	100%	6%

Reference data 11

Leavers by reason, BME employees, White employees

	No.	BME employees %	White employees %	Not stated %	Total
Career Break	8	63%	38%		100%
Deceased	8	75%	25%		100%
Dismissal – Capability	5	60%	40%		100%
Dismissal	15	67%	33%		100%
Expiration of Contract	41	49%	49%	2%	100%
Redundancy	384	56%	44%	1%	100%
Resignation	272	46%	53%	1%	100%
Retirement Age	31	29%	71%		100%
Retirement Early	2	0%	100%		100%
Retirement Ill Health	8	50%	50%		100%
Total	775	51%	48%		100%

Reference data12

Leavers by reason & age bands

	No.	16 - 24	25 - 39	40 - 54	55 +	Total
Career Break	8		50%	38%	13%	100%
Deceased	8		13%	50%	38%	100%
Dismissal – Capability	5		40%	40%	20%	100%
Dismissal	15	7%	33%	40%	20%	100%
Expiration of Contract	41	27%	32%	22%	20%	100%
Redundancy	384		19%	40%	42%	100%
Resignation	272	4%	51%	31%	14%	100%
Retirement Age	31				100%	100%
Retirement Early	2				100%	100%
Retirement Ill Health	8			25%	75%	100%
Total	775	4%	30%	32%	34%	100%

Section 3: Performance Management

This monitor looks at incremental awards in 1st April 2016. The information has been drawn from May's payroll.

1. In 2014 a high proportion of staff received an increment (74%). In 2013-14 Members had agreed a change in the grade ranges which opened up incremental awards to large numbers of employees.
2. The awards this year (50%) are lower to previous levels. It is also important to note that a final decision on incremental award has not yet been taken for a number of staff. (*Reference data 13*)

Reference data 13

Incremental awards – Council wide position

Incremental awards	Increment given	No increment given
2013% of employees	56%	44%
2014 % of employee	74%	26%
2015 % of employees	58%	42%
2016 % of employees ¹	50%	50%

¹ Data for incremental awards 2016 as at 20 May 2016.

Reference data 14

Incremental awards by gender

Outcomes & % of employees	Female	Male
Increment Given	47%	52%
No Increment Given	53%	48%
Total	100%	100%

Reference data 15

Incremental awards by disability

Outcomes & % of employees	Not Disabled	Disabled
Increment Given	50%	47%
No Increment Given	50%	53%
Total	100%	100%

Reference data 16

Incremental awards by broad ethnic origin

Outcomes & % of employees	Asian	Black	Mixed	Other	White	Not Stated
Increment Given	49%	51%	48%	39%	50%	42%
No Increment Given	51%	49%	52%	61%	50%	58%
Total	100%	100%	100%	100%	100%	100%

Reference data 17

Incremental awards by age band

Outcomes & % of employees	16 to 24	25 to 39	40 to 54	55 & over
Increment Given	51%	51%	50%	47%
No Increment Given	49%	49%	50%	53%
Total	100%	100%	100%	100%

Section 4 – Sickness

1. Average sickness per person, 6.63 days, showed a decrease of over 1 day per person (Reference data 18). This is lower than the average sickness across London boroughs, 7.5 days. (Appendix 1). Of note is the significant proportion of staff who had no sickness absence during the year (48%).
2. There are multiple recorded reasons for sickness which are grouped as shown (*Reference data 19*). The “internal disorders” grouping alone covers over a hundred conditions; but will include chronic health disorders such as angina, chest infections, stroke etc.

Reference data 18

Annual average days sickness per person over five years

Year	Average sickness absence (Excludes schools)
2010-11	7.74
2011-12	4.67
2012-13	7.49
2013-14	7.77
2015-16	6.63

Note 2316 (51%) staff had no sickness in the year 2015-16.

Reference data 19

Recorded reasons for sickness absence 2014-15

(¹) Excludes where not stated

Reason	%
Internal Disorders	23.7%
Infectious Disease	18.1%
14.1 Muscular Skeletal	14.1%
Neurological	10.4%
Chest respiratory	7.7%
ENT dental & Skin	7.7%
Disability Related	5.2%
Pregnancy & Related	3.7%
Accident / Injury	2.7%
Stress depression	2.3%
Back problems	2.0%
Genito urinary	0.9%
Heart blood pressure	0.7%
Cancer	0.5%
Mental health	0.2%

Section 5 – Learning & Development

1. It is stressed that the data below shows training activities coordinated by Organisational Development. Managers and staff record all other training/ learning and development locally.
2. The data suggests that when looking at training days:-
 - The proportion of those attending is broadly in line with; the proportion of people from different ethnic groups in the workforce, (*reference data 20*), the proportion of people who are disabled in the workforce. (*Reference data 21*)
 - The proportion of women attending training occasions/ days is higher than the proportion of women (66%) in the workforce. (*Reference data 22*)

Reference data 20

Employees attending training coordinated by OD & their ethnic origin¹

	Numbers attending	% of those attending
BME	4008	49.2%
White	3876	47.6%
Not Stated	249	3.1%
Total	8133	100%

¹ Data relates to the number of training days and attendees on each of those training days, someone attending a 5 day training programme will be represented 5 times etc.

Reference data 21

Employees attending training coordinated by OD & whether they have a disability¹

	Numbers attending	% of those attending
Disabled	251	3.1%
Not Disabled	7882	96.9%
Total	8133	100%

Reference data 22

Employees attending training coordinated by OD & their gender¹

	Numbers attending	% of those attending
Female	5372	66%
Male	2690	33%
Not stated	71	1%
Total	8133	100%

Section 6 - Disciplinary Investigations & Outcomes

Note – two separate activities are described in this section; staff subject to disciplinary investigation and the outcomes of disciplinary hearings. The information below is not necessarily linked, i.e. some of the cases are captured in “investigations” would not have reached the stage of a completed disciplinary hearing.

1. The numbers subject to disciplinary investigation and disciplinary action are a very small percentage of all employees, 1% (*Reference data 23 & Key Data*). On 31 occasions disciplinary actions resulted in either a warning or dismissal. (*References data 25 & 26*). Those subject to such actions are 0.7% of all employees, (*key data*). Where there are such small numbers drawing conclusion based on more detailed levels, e.g. gender, ethnic profile or disability is questionably statistically valid.
2. It is difficult to draw conclusions from relatively low numbers when considered against the overall workforce. However these numbers should be subject to further analysis and monitoring to ascertain whether more detailed action is necessary.

Reference data 23

Investigations by gender & by disability

	Female	Male	Total	Of those - disabled
Disciplinary Action Pursued	14	33	47	4
In Progress	8	12	20	1
Total¹	22	45	67	5

¹ Note in addition 9 investigations resulted in a guidance interview; on 4 occasions there was no further action; on 4 occasions the employee left before the investigation concluded.

Reference data 24

Investigations by broad ethnic origin

	BME employees	White employees	Total
Disciplinary Action Pursued	27	20	47
In Progress	9	11	20
Total¹	36	31	67

¹ Note in addition 9 investigations resulted in a guidance interview; on 4 occasions there was no further action; on 4 occasions the employee left before the investigation concluded.

Reference data 25

Disciplinary action by gender & by disability

	Female	Male	Total	Of those - disabled
Dismissal	2	13	15	1
Final written warning	3	8	11	1
Written warning	2	3	5	
Total²	7	24	31	2

² Note in addition

- On 9 occasions the employee left during a disciplinary process
- 7 still in progress

Reference data 26

Disciplinary action by broad ethnic origin

	BME employees	White employees	Total
Dismissal	9	6	15
Final written warning	7	4	11
Written warning	1	4	5
Total²	17	14	31

² Note in addition

- On 9 occasions the employee left during a disciplinary process
- 7 still in progress

Section 7 - Capability Action & Outcomes

- The numbers subject to capability action are a small percentage of all employees (*References data 27 & 28*), 8 concluded cases represents 0.2% all employees, (key data). Where there are such small numbers drawing conclusion based on more detailed levels, e.g. gender, ethnic profile or disability is questionably valid.

Reference data 27

Capability action by gender & by disability

	Female	Male	Total	Of those - disabled
Dismissal	1	4	5	
Final written warning			0	
Written warning			0	
Other outcomes	1	2	3	1
No action			0	
Total	2	6	8	1

- 1 still in progress

Reference data 28

Capability action by broad ethnic origin

	BME employees	White employees	Total
Dismissal	3	2	5
Final written warning			0
Written warning			0
Other outcomes	1	2	3
No action			0
Total	4	4	8

- 1 still in progress

Section 8 - Staff Complaints

Note this data relates to individual employee complaints that require a formal process to resolve. Many complaints can be resolved informally or through mediation; all parties are encouraged to pursue such actions as a first step.

1. The numbers of staff that submit a formal complaint at stage 1 are very few. (*Reference data 29 & 30*); 18 employees represent 0.4% of the workforce. (*Key data*).
2. Stage 2 complaints are those where the employee is not satisfied with the outcome at stage one and identifies grounds for appeal.
3. Where there are such small numbers drawing conclusions at a more detailed level, e.g. gender, ethnic profile or disability is questionably valid.

Reference data 29

Stage 1 complaints by gender & by disability

	Female	Male	Total	Of those - disabled
Informal resolution	2		2	
Not upheld	7	3	10	1
Partially upheld		3	3	
Upheld	1	2	3	
Total¹	10	8	18	1

¹ In addition 3 stage 1 registered complaints were withdrawn.

Reference data 30

Stage 1 complaints by broad ethnic origin

	BME employees	White employees	Total
Informal resolution	2		2
Not upheld	4	6	10
Partially upheld	2	1	3
Upheld	1	2	3
Total¹	9	9	18

¹ In addition 3 stage 1 registered complaints were withdrawn.

Reference data 31

Stage 2 complaints by gender & by disability

	Female	Male	Total	Of those - disabled
Not upheld		1	1	0
Partially upheld				
Upheld				
Total	0	1	1	0

Reference data 32

Stage 2 complaints by broad ethnic origin

	BME employees	White employees	Total
Not upheld		1	1
Partially upheld			
Upheld			
Total	0	1	1

Section 9 - Respect at Work

Note; the procedure will cover complaints on all forms of harassment, bullying or victimisation on the basis of someone's profile.

1. The numbers of employees making a formal complaint are few; 10 employees represents than 0.2% of the workforce.
2. Where there are such small numbers drawing conclusions at a more detailed level, e.g. gender, ethnic profile or disability is questionably valid.

Reference data 33

Complaints by gender & by disability

	Female	Male	Total	Of those - disabled
Informal resolution	1	1	2	
Mediation		1	1	
Not upheld	2	2	4	
Upheld	1		1	1
Partially upheld	2		2	
Total¹	6	4	10	1

¹ In addition 4 complaints were withdrawn.

Reference data 34

Complaints by broad ethnic origin

	BME employees	White employees	Total
Informal resolution	2		2
Mediation		1	1
Not upheld	2	2	4
Upheld		1	1
Partially upheld	1	1	2
Total 1	5	5	10

¹ In addition 4 complaints were withdrawn.

Section 10 - Recruitment

- The following looks at recruitment projects over the year 2015-16. A recruitment project is an advertised job(s) with a defined closing date. More than one media (advertisements) may be used in each project. The following looks at 442 recruitment projects; of these

- There were 46, each with 50 or more applicants.
- There were 151, each with 5 or less applicants.

Some jobs have been the subject of more than one recruitment project. For example, Advanced Practitioner appears several times, each project is counted separately. Only those projects that attracted an applicant response are shown. Applicants who withdrew from the process are excluded completely from the details below.

- Overall there were 9,110 people who pursued an application. Whilst It is difficult to identify multiple applications, (to do so would require examination of individual records to verify what appear to be the same names), this occurs. 13 candidates submitted 10 or more, multiple applications totalling 211 applications. Frequency of occurrence is unlikely to notably skew the figures but a factor.
- Looking at gender and disability the success of people at different stages of the recruitment process are in line with the percentages of people who applied, i.e. female / male, not disabled / disabled, (*Reference data 35 & 36*).

Reference data 35

Gender

Female applicants, 5124; Male applicants, 3838; Not stated, 148

Status	Female	Male	Not stated	Total
Hired	60%	35%	4%	100%
Shortlisted	59%	38%	3%	100%
Applicants	56%	42%	2%	100%

* Hire here means an offer of appointment, not that the person has yet started work

Reference data 36

Disability

Disabled applicants, 530; not disabled applicants, 8432; Not stated, 148.

Status	Disabled	Not Disabled	Not stated	Total
Hired	5%	91%	4%	100%
Shortlisted	7%	90%	3%	100%
Applicants	6%	92%	2%	100%

* Hire here means an offer of appointment, not that the person has yet started work

- When looking at broad ethnic origin, (*Reference data 37,*) the significant outcomes to note are –

- The percentage of applicants from BME communities 64% (5803 people).
- The percentage of hires from BME communities 49%, (405 people).

Both percentages are higher than the proportion of people from BME communities living in Southwark (45.8%) or London (40.2%) – 2011 census.

Unlike gender and disability where the percentages of people from different profiles remain constant through the recruitment stages, BME applicants become less successful through the stages, albeit still the larger proportion, (*Reference data 37*).

Reference data 37

Broad Ethnic Origin

BME applicants, 5803; White applicants, 3159; Not stated, 148.

	BME	White	Not stated	Total
Hired	49%	50%	1%	100%
Shortlisted	55%	43%	1%	100%
Applicants	64%	35%	2%	100%

* Hire here means an offer of appointment, not that the person has yet started work

5. In part this can be explained by the recruitment projects with very large response rates; 50 or more applicants, (*Reference data 38*). These attracted very large numbers of applicants from the BME community. But also means that very large numbers of people from BME communities were “rejected” (2363 at shortlisting stage); skewing the percentages above (*Reference table 37*). For the recruitment projects with large response rates, (*Reference data 38*), whilst there is still difference between the success of applicants from BME communities & the success of white applicants through the different stages, this is less stark. It is also notable that there is very little difference here between the proportion shortlisted (60%) and hired (56%). Before interview stage, recruiters would have no reliable information which could reasonably determine an applicant’s ethnicity.

Reference table 38

Recruitment projects with over 50 applicants each

Numbers of projects	45
Numbers of applicants	4123

Outcomes

BME applicants 2784, White applicants 1336; Not stated 3

Status	BME	White	Not stated	Total
Hired	56%	44%		100%
Shortlisted	60%	40%		100%
Applicants	68%	32%	1%	100%

* Hire here means an offer of appointment, not that the person has yet started work

Section 11 – Agency Workers

1. Agency workers are not employees of the Council. But are an important resource in the delivery of the council's services. On the first working Monday of each month a snapshot is compiled of agency workers in use.
2. Monitors over the financial year 2015-16 show that numbers ranged from 327 to 416. (Reference data 39)

Reference data 39

Agency Workers – numbers via monthly snapshot 2014-15¹

	No. Headcount
April 15	357
May 15	381
June 15	375
July 15	366
August 15	365
September 15	384
October 15	413
November 15	414
December 15	378
January 16	327
February 16	394
March 16	416

¹ The numbers of agency workers in use as at the monitoring date, i.e. first working Monday of each month.

3. The average numbers in use over the year was 380 workers. This compares with 391 the previous year.

Information on the community in Southwark & other London Boroughs

Southwark's workforce is drawn from across London & the South-east of England approximately 27%¹ of our staff were Southwark residents. It is however interesting to look at how the profile of the workforce compares to the Southwark community and where possible across London.

⁽¹Borough residency is not an indicator on HR records and this figure has been compiled from home address/ post code information).

This Section provides some basic information about the Borough drawn from the 2011 census.

It also includes key data comparing the council's workforce with other London boroughs. Albeit this must viewed with caution. Increasingly the services provided will differ between boroughs. This will, for example, impact on the gender profile where particular services remain male or female dominated. Service type and organisation size is also known to affect how organisations perform, for example sickness absence tends to be higher in large multi functional organisations.

Some key data is as follows.

Census data - Southwark borough

All data drawn from ONS census 2011 – key statistics

1. Population figures, gender & economically active comparisons

	Southwark borough information	England Country
2011 Population: All Usual Residents	288,283	53,012,456
2011 Population: Males	142618	26069148
	49.5%	49.2%
2011 Population: Females	145665	26943308
	50.5%	50.8%
Economically Active; Employee; Full-Time	42%	39%
Economically Active; Employee; Part-Time	9.9%	13.7%
Economically Active; Self-Employed	10.0%	9.8%
Economically Active; Unemployed	6.0%	4.4%
People aged 16 and over with 5 or more GCSEs grade A-C, or equivalent	10.2%	15.2%
People aged 16 and over with no formal qualifications	16.3%	22.5%

2. Occupations of all people in employment, March 2011

	Southwark	England
Managers, directors and senior officials	11%	11%
Professional occupations	26%	18%
Associate professional and technical occupations	17%	13%
Administrative and secretarial occupations	10%	12%
Skilled trades occupations	7%	11%
Caring, leisure and other service occupations	8%	9%
Sales and customer service occupations	7%	8%
Process, plant and machine operatives	3%	7%
Elementary occupations	12%	11%

3. Ethnic Origin

	Southwark – Borough (Numbers)	(%s)	London – Region (%s)	England – Country (%s)
All Usual Residents	288283			
White; English/Welsh/Scottish/Northern Irish/British	114534	39.7%	45%	79.8%
White; Irish	6222	2.2%	2%	1.0%
White; Gypsy or Irish Traveller	263	0.1%	0%	0.1%
White; Other White	35330	12.3%	13%	4.6%
White		54.2%	59.8%	85.4%
Mixed/Multiple Ethnic Groups; White and Black Caribbean	5677	2.0%	1%	0.8%
Mixed/Multiple Ethnic Groups; White and Black African	3687	1.3%	1%	0.3%
Mixed/Multiple Ethnic Groups; White and Asian	3003	1.0%	1%	0.6%
Mixed/Multiple Ethnic Groups; Other Mixed	5411	1.9%	1%	0.5%
Mixed		6.2%	5.0%	2.3%
Asian/Asian British; Indian	5819	2.0%	7%	2.6%
Asian/Asian British; Pakistani	1623	0.6%	3%	2.1%
Asian/Asian British; Bangladeshi	3912	1.4%	3%	0.8%
Asian/Asian British; Chinese	8074	2.8%	2%	0.7%
Asian/Asian British; Other Asian	7764	2.7%	5%	1.5%
Asian		9.4%	18.5%	7.8%
Black/African/Caribbean/Black British; African	47413	16.4%	7%	1.8%
Black/African/Caribbean/Black British; Caribbean	17974	6.2%	4%	1.1%
Black/African/Caribbean/Black British; Other Black	12124	4.2%	2%	0.5%
Black		26.9%	13.3%	3.5%
Other Ethnic Group; Arab	2440	0.8%	1%	0.4%
Other Ethnic Group; Any Other Ethnic Group	7013	2.4%	2%	0.6%
Other		3.3%	3%	1.0%
Totals		100.0%	100.0%	100.0%

Other Boroughs

The following information relates to year 2014/15. Data for 2015/16 is not available at present. The data that is shown is based on no fewer than submissions from 29 of the 32 London boroughs although not every borough will have submitted data for every area.

In considering this information –

- The London mean (average) data is shown.
- It must be re-emphasised that there are significant differences in the organisations presenting data, e.g. Newham has around 5000 directly employed staff (headcount), Richmond shy of 1500 directly employed staff (headcount).
- Organisations collect and define data in different ways, e.g. some councils extrapolate from survey information others such as Southwark rely on actual declarations.
- Only data which links to Southwark's statistics shown in the body of this report is shown.

1. Headcount of employees

- 2,830 staff

2. Average age

- 45.64 years. Across London boroughs those in 16-24 years age band are 3.47% of the workforce. (Note there are significant variations in data submitted by boroughs in response to this question, one borough's return being 0.5%, another 7.8% - which is out of step with all other responses)

3. Gender profile

- Male 39.96%
- Female 60.04%

4. Disabled staff

- 5% of the workforce

5. Broad Ethnic Origin

Not known – 8.45% of remainder

Broad Ethnic Origin	%
Asian (inc Chinese)	10.82%
Black	20.72%
Mixed	2.92%
White	63.4%
Other	2.14%

6. Length of Service

Range	%
Less than a year	7.95
1 - < 2 years	8.63
2 - < 3 years	6.92
3 - < 5 years	8.68
5 - < 10 years	24.1
10 - < 15 years	18.32
15 - < 20 years	7.84
20 years & above	14.32

Sickness Absences

- Average sickness days per person 7.5 days
-



Workforce report 2014-15

This report looks at the profile of employees and at human resources management activities over financial year 2014–15

Scope

1. It covers all departments of the council and directly employed substantive employees. It therefore excludes those under the management of schools.
2. All departmental details will relate to organisational structures as at year end 2014-15.
3. All workforce profile data will be at the end of the year 2014-15.
4. All data related to the outcomes of HR activity will cover the period April 2014 – March 2015, unless stated.
5. For completeness, information is given on the numbers of agency workers engaged. They are an important addition to our workforce resources but do not have a direct contractual relationship with the council and therefore details are limited.

Content

The report –

1. Begins with key data. This includes an overview of employees' profile and some comparative data from previous years.
2. Looks at the profile of the council's employees against each protected characteristic where information is available (gender, ethnic origin, age, disability).
3. Will be discussed with the constituent trade unions.

The report will be published on the council's intranet, (the Source), and the Southwark website; www.southwark.gov.uk

Contents

Please click on the links below

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[Appendix 1 Information on the community in Southwark & other London Boroughs](#)

Key data - Workforce 2014 - 15

The details below pull out some key information from the report that follows about the workforce. It aims to provide a quick reference and to give context by looking at details from previous years where comparisons can be made.

Year 2014-15			Context		
Number of employees (headcount)			Number of employees		
4847			Year	No. of Employees	
			Year 2014-15	4847	
			Year 2013-14	4814	
			Year 2012-13	4624	
Gender Profile of Employees			Gender Profile		
	Number	%	Year	% Female Employees	
Female	2501	52%	Year 2014-15	52%	
Male	2346	48%	Year 2013-14	52%	
			Year 2012-13	53%	
Broad Ethnic Profile			Broad Ethnic Profile		
	Number	%	Year	% BME employees	% White employees
BME employees	2335	49%	Year 2014-15	49%	51%
White employees	2467	51%	Year 2013-14	48%	52%
Total	4802	100%	Year 2012-11	48%	52%
Excludes those with no ethnic origin stated = 45 employees					
Employees with Disabilities			Disability		
	Number	%	Year	% Disabled employees	
Employees	185	3.8%	Year 2014-15	3.8%	
			Year 2013-14	4.1%	
			Year 2012-13	4.0%	
Average age of the workforce			Age		
45.2years			Year	Average age (years)	
			Year 2014-15	45.2	
			Year 2013-14	44.9	
			Year 2012-13	44.9	

Section 1: Workforce Numbers & Employee Profiles

1. The headcount of employees at 31 March 2015 was 4847. This excludes casual workers and non staff resources such as agency workers. A workforce population of 4847 is within 1% of employee numbers in 2013-14. (*Key Data*). It is significantly higher than the average workforce in London boroughs which in 2014-15 was 2830 (*Appendix 1*).
2. Employees in the three service departments make up 80% of the council's workforce (Children's & Adults; Environment & Leisure; Housing & Community Services). (*Reference data 1*)
3. The highest percentage of part time employees is in Children's & Adults' Services. Overall 15% of all employees work part time. (*Reference data 2*)

Reference data 1

Employee numbers by department

	Numbers (headcount)	% of total
Chief Executive's Department	383	8%
Children's & Adults Services	1357	28%
Environment & Leisure	1319	27%
Finance & Corporate Services	583	12%
Housing & Community Services	1196	25%
Total	4,847	100%

Reference data 2

Distribution of full time & part time employees per department & Council wide

	Male		Female	
	Full-time	Part-time	Full-time	Part-time
Chief Executive's Department	38.4%	2.0%	46.3%	13.2%
Children's & Adults Services	22.7%	5.5%	54.1%	17.7%
Environment & Leisure	69.6%	4.1%	18.1%	8.2%
Finance & Corporate Services	43.4%	0.7%	47.3%	7.5%
Housing & Community Services	45.8%	1.8%	42.8%	9.6%
Total	45.0%	3.4%	40.1%	11.5%

Gender

4. The percentages of female and male employees are similar; 52% of employees are female; 48% are male. (*Reference data 3*). The gender split shows no changes from the previous year, (*Key Data*). The gender breakdown in council employment is similar to the female population in Southwark (50.5%) and is lower than the average across London boroughs (60.04%). (*Appendix 1*)
5. There are significant differences in the gender breakdown when looking at a departmental level. (*Reference data 3*)
6. There are higher percentages of male employees than female employees in the grades 1-5, in Building Services, and in the higher grade bands. Although the total numbers of employees grade 14 and above are relatively small (*Reference data 4*)

Reference data 3

Gender breakdown per department as percentages

Department	Female	Male
Chief Executive's Department	59.54%	40.46%
Children's & Adults' Services	71.78%	28.22%
Environment & Leisure	26.31%	73.69%
Finance & Corporate Services	54.89%	45.11%
Housing & Community Services	52.38%	47.62%
Total	51.60%	48.40%

Reference data 4

Grade distribution, gender and disability

Grade band	Total	Female	Male	Disabled staff
Grades 1-5	1213	391	822	27
%	100%	32%	68%	2% ¹
Building Workers	80	1	79	2
%	100%	1%	99%	3% ¹
Grades 6 - 9 or equivalent	1935	1170	765	94
%	100%	60%	40%	5% ¹
Grades 10-12 +SW's	1272	749	523	52
%	100%	59%	41%	4% ¹
Grades 14-16	220	102	118	9
%	100%	46%	54%	4% ¹
Grades 17 & above	25	7	18	
%	100%	27%	73%	
Teacher conditions	15	15		
%	100%	100%		
Soulbury conditions	43	35	8	
%	100%	81%	19%	
Other²	44	31	13	1
%	100%	70%	30%	2% ¹
Total	4847	2501	2346	185

¹ Percentage in that grade band² TUPE conditions (various)

Disabilities

7. The percentage of people with disabilities, 3.8%, is similar to the previous year (*Key Data*). There are some significant differences between departments. (*Reference data 5*)
8. Southwark records actual employee declarations of a disability. Since the introduction of the Disability Discrimination Act when the use of strict externally set criteria to determine “disability” ceased; self declaration is appropriate. It is known that some other boroughs determine the disability average by extrapolating from survey data or use sickness absence rates as a marker. This is not our preferred approach. The average across London boroughs is 5%. , (*Appendix 1*).
9. The percentages of employees with disabilities are lowest in grades 1-5 and those on Building Worker grades. There are some grade bands where there are no staff with a declared disability. This applies to those grade bandings where numbers of staff are few. (*Reference data 4*)

Reference data 5

Staff with disabilities as percentage of departmental numbers

Department	% Disabled
Chief Executive's Department	8.89%
Children's & Adults' Services	33.22%
Environment & Leisure	15.81%
Finance & Corporate Services	11.96%
Housing & Community Services	30.11%
Total	100.00%

Ethnic Origin

10. There are a small number of employees who do not have an ethnic origin record, 45 employees (less than 1%), this compares with an average of 8.45% across London boroughs who do not have an ethnic origin (*Appendix 1*). Those with no ethnic origin data recorded are predominately people who joined the council under TUPE agreements. (*Key data*).
11. There is only a minor change in the percentages of employees who classify themselves as “White” and from black and minority ethnic groups compared to previous years. (*Key Data*).
12. When looking at broad ethnic groups the percentages of employees from White and from BME communities are very similar to the percentages in the Southwark community. Where 54% of the population classify themselves as White. (*Appendix 1*). Across London boroughs those employees who classify themselves as White average 63.4%, (*Appendix 1*).
13. The percentages of White employees compared to BME employees change significantly through the grades. Putting aside those in Building Worker grades; up to grade 9 there are higher percentages of BME staff than percentages of White staff. This changes at grades 10-12 and the percentages of BME employees are low in grades 14 and above. (*Reference data 7*)

Reference data 6

Broad ethnic origin of employees as percentage of departmental numbers

	Asian	Black	Mixed	Other	<i>BME employees</i>	White
Chief Executive's Department	7%	21%	4%	4%	37%	63%
Children's & Adults Services	4%	42%	4%	3%	53%	47%
Environment & Leisure	4%	30%	2%	4%	40%	60%
Finance & Corporate Services	8%	31%	3%	3%	46%	54%
Housing & Community Services	5%	46%	4%	3%	58%	42%
Total across the council	5%	37%	4%	3%	48%	51%

Reference data 7

Grade distribution, broad ethnic origin

Grade band	Asian	Black	Mixed	Other	BME employees	White	Not Stated	Total
Grades 1-5	46	510	47	46	649	562	2	1213
% ¹					54%	46%		
Building Workers		26		2	28	52		80
% ¹					35%	65%		
Grades 6 - 9 or equivalent	112	861	63	66	1102	794	39	1935
% ¹					58%	42%		
Grades 10-12 +SW's	61	342	50	35	488	780	4	1272
% ¹					38%	62%		
Grades 14-16	8	20	3	1	32	188	0	220
% ¹					15%	85%		
Grades 17 & above		2	2	1	5	20	0	25
% ¹					20%	80%		
Teacher conditions	1		1	3	5	10	0	15
% ¹					33%	67%		
Soulbury conditions	3	3	1	2	9	34	0	43
% ¹					21%	79%		
Other ²	6	7	2	2	17	27	0	44
% ¹					39%	61%		
Total	237	1771	169	158	2335	2467	45	4847

¹ Excludes those where ethnic origin not supplied.² TUPE conditions (various)

Age

14. The average age of employees is 45.2 years. (*Key Data*). This is similar to the average age across London boroughs which is 45.64 years, (*Appendix 1*).
15. Predominately employees are in the 40-54 years banding (46%). (*Reference data 7*)

Reference data 7

Employees per age band as percentage of total workforce numbers

Age bands	Total
16 to 24	3.19%
25 to 39	30.26%
40 to 54	45.44%
55+	21.11%
Total	100.00%

Length of Service

16. Employees' length of service is on average 9 years. This suggests no retention issues. It must be noted however that the average service will be impacted by the large percentage of employees who have over 20 years service. (*Reference data 8*)

Reference data 8

Employees' length of service & service bandings - total workforce numbers

Average (mean) length of service	9 years
Length of service – bands	% of employees
Less than 1 year	10%
1 to <2 years	12%
2 to <3 years	8%
3 to <5 years	11%
5 to <10 years	22%
10 to <15 years	18%
15 to 20 years	6%
20+ years	13%
Total	100%

Section 2: Changes in the Workforce

Starters

1. Based on the existing workforce there were 503 people who had started work with the council within the year 2014/15. The table below shows the person's department at the end of the financial year not necessarily the department at commencement. (*Reference data 9*)
2. As noted in the previous section; those starting during this period have not resulted in any notable changes to the profile of the workforce in terms of gender, age, disability or ethnic origin (*Key data*).

Reference data 9

Number of starters & department

	Numbers starters (headcount)
Chief Executive's Department	54
Children's & Adults Services	183
Environment & Leisure	123
Finance & Corporate Services	20
Housing & Community Services	123
Total	503

Leavers

3. This section provides details on the reasons why people leave the organisation and their profile.
4. The dominant reasons for people leaving were on a voluntary basis, i.e. resignation, career breaks, retirement age. Of the remainder, whilst 83 people left on redundancy; any other reason attracted relatively small numbers of employees.
5. Further scrutiny of those who left on the basis of dismissal; discipline or capability, appears in the relevant sections later in this report.

Reference data 10

Leavers by reason, gender and disability

Reason for Leaving	Number	Female %	Male %	Total	Of those disabled %
Career Break	11	73%	27%	100%	18%
Deceased	6	33%	67%	100%	0%
Dismissal – Capability	8	88%	13%	100%	0%
Dismissal	5	20%	80%	100%	0%
Expiration of Contract	43	56%	44%	100%	2%
Outsourced	13	69%	31%	100%	8%
Redundancy	83	66%	34%	100%	1%
Resignation	288	57%	43%	100%	3%
Retirement Age	29	38%	62%	100%	17%
Retirement Early	9	22%	78%	100%	11%
Retirement Ill Health	11	27%	73%	100%	9%
Total	506	57%	43%	100%	4%

Reference data 11

Leavers by reason, BME employees, White employees

	No.	BME employees %	White employees %	Not stated %	Total
Career Break	11	55%	36%	9%	100%
Deceased	6	67%	33%	0%	100%
Dismissal – Capability	8	88%	13%	0%	100%
Dismissal	5	100%	0%	0%	100%
Expiration of Contract	43	65%	30%	5%	100%
Outsourced	13	46%	31%	23%	100%
Redundancy	83	55%	40%	5%	100%
Resignation	288	40%	58%	2%	100%
Retirement Age	29	24%	76%	0%	100%
Retirement Early	9	22%	78%	0%	100%
Retirement Ill Health	11	64%	36%	0%	100%
Total	506	47%	51%	3%	100%

Reference data12

Leavers by reason & age bands

	No.	16 - 24	25 - 39	40 - 54	55 +	Total
Career Break	11	0%	55%	27%	18%	100%
Deceased	6	0%	17%	33%	50%	100%
Dismissal – Capability	8	0%	0%	63%	38%	100%
Dismissal	5	0%	60%	40%	0%	100%
Expiration of Contract	43	26%	37%	23%	14%	100%
Outsourced	13	0%	31%	31%	38%	100%
Redundancy	83	0%	18%	40%	42%	100%
Resignation	288	6%	52%	32%	10%	100%
Retirement Age	29	0%	0%	0%	100%	100%
Retirement Early	9	0%	0%	0%	100%	100%
Retirement Ill Health	11	0%	9%	27%	64%	100%
Total	506	6%	39%	30%	25%	100%

Section 3: Performance Management

This monitor looks at incremental awards in 1st April 2015. The information has been drawn from the June 2015 payroll.

- In 2014 a high proportion of staff received an increment (74%). In 2013-14 Members had agreed a change in the grade ranges which opened up incremental awards to large numbers of employees. The awards this year (2015) are closer to previous levels. (*Reference data 13*)

Reference data 13

Incremental awards – Council wide position

Incremental awards	Increment given	No increment given
2013% of employees	56%	44%
2014 % of employee	74%	26%
2015 % of employee	58%	42%

Reference data 14

Incremental awards by gender

Outcomes & % of employees	Female	Male
Increment Given	54%	62%
No Increment Given	46%	38%
Total	100%	100%

Reference data 15

Incremental awards by disability

Outcomes & % of employees	Not Disabled	Disabled
Increment Given	58%	52%
No Increment Given	42%	48%
Total	100%	100%

Reference data 16

Incremental awards by broad ethnic origin

Incremental Awards & Broad Ethnic Groups	White	Other	Not Stated	Mixed	Black	Asian
No Increment Given	42%	42%	40%	44%	42%	44%
Increment Given	58%	58%	60%	56%	58%	56%
Total	100%	100%	100%	100%	100%	100%

Reference data 17

Incremental awards by age band

Outcomes & % of employees	16 to 24	25 to 39	40 to 54	55 & over
Increment Given	53%	60%	57%	54%
No Increment Given	47%	40%	43%	46%
Total	100%	100%	100%	100%

Section 4 – Sickness

1. Average sickness per person, 7.77 days, showed a slight increase in comparison against the previous three years (*Reference data 18*). This is slightly higher than the average sickness across London boroughs, 7.5 days. (*Appendix 1*) but followed low averages in recent years. Of note is the significant proportion of staff who had no sickness absence during the year (48%).
2. There are multiple recorded reasons for sickness which are grouped as shown (*Reference data 19*). The “internal disorders” grouping alone covers over a hundred conditions; but will include chronic health disorders such as cancer, angina, chest infections, stroke etc.

Reference data 18

Annual average days sickness per person over five years

Note 2323 (48%) staff had no sickness in the year 2014-15.

	2010/11	2011/12	2012/13	2013/14	2014/15
Days Per Person	8.21	7.74	7.67	7.49	7.77

Reference data 19

Recorded reasons for sickness absence 2014-15

(1) Excludes where not stated

Reason for Sickness	%
Internal Disorders	35.3%
Neurological/ Psychological	12.3%
Muscular Skeletal	15.3%
Infectious Disease	19.7%
ENT Eye & Skin	8.5%
Disability Related	3.5%
Pregnancy & Related	2.9%
Accident / Injury	2.5%

Section 5 – Learning & Development

1. It is stressed that the data below shows training activities coordinated by Organisational Development. Managers and staff record all other training/ learning and development locally.
2. The data suggests that when looking at training days:-
 - The proportion of those attending is broadly in line with; the proportion of people from different ethnic groups in the workforce, (*reference data 20*), the proportion of people who are disabled in the workforce. (*Reference data 21*)
 - The proportion of women attending training occasions/ days is higher than the proportion of women (68%) in the workforce. (*Reference data 22*)

Reference data 20

Employees attending training coordinated by OD & their ethnic origin¹

Broad Ethnic Group	%
BME	46%
White	45%
Not Stated	9%

Reference data 21

Employees attending training coordinated by OD & whether they have a disability¹

	Numbers attending	% of those attending
Disabled	250	4%
Not Disabled	5931	88%
Not known	559	8%
Total	559	100%

Reference data 22

Employees attending training coordinated by OD & their gender¹

	Numbers attending	% of those attending
Female	4585	68%
Male	2154	32%
Total	6739	100%

¹ Data relates to the number of training days and attendees on each of those training days, someone attending a 5 day training programme will be represented 5 times etc.

Section 6 - Disciplinary Investigations & Outcomes

Note – two separate activities are described in this section; staff subject to disciplinary investigation and the outcomes of disciplinary hearings. The information below is not necessarily linked, i.e. some of the cases are captured in “investigations” would not have reached the stage of a completed disciplinary hearing.

1. The numbers subject to disciplinary investigation and disciplinary action are a very small percentage of all employees, less than 1% (*Reference data 23 & Key Data*). On 17 occasions disciplinary actions resulted in either a warning or dismissal. (*References data 25 & 26*). Those subject to such actions are 0.4% of all employees, (*key data*).
2. Where there are such small numbers drawing conclusion based on more detailed levels, e.g. gender, ethnic profile or disability is questionably statistically valid.

Reference data 23

Investigations by gender & by disability

	Female	Male	Total	Of those - disabled
Disciplinary Action Pursued	10	22	32	0
In Progress	6	5	11	1
Total¹	16	27	43	1

¹ Note in addition 17 investigations resulted in a guidance interview; on 9 occasions there was no further action; on 3 occasions the employee left before the investigation concluded.

Reference data 24

Investigations by broad ethnic origin

	BME employees	White employees	Total
Disciplinary Action Pursued	26	6	32
In Progress	7	4	11
Total¹	33	10	43

¹ Note in addition 17 investigations resulted in a guidance interview; on 9 occasions there was no further action; on 3 occasions the employee left before the investigation concluded.

Reference data 25

Disciplinary action by gender & by disability

	Female	Male	Total	Of those - disabled
Dismissal	1	4	5	0
Final written warning	3	4	7	0
Written warning	1	4	5	0
Total²	5	12	17	0

² Note in addition

- 2 disciplines resulted in a guidance interview;
- On 1 occasion the action has been postponed due to bereavement
- On 5 occasions the employee left during a disciplinary process
- 1 discipline confirmed the employee’s rights to work in the UK had expired
- 6 still in progress

Reference data 26

Disciplinary action by broad ethnic origin

	BME employees	White employees	Total
Dismissal	5		5
Final written warning	5	2	7
Written warning	3	2	5
Total²	13	4	17

² Note in addition

- 2 disciplines resulted in a guidance interview;
- On 1 occasion the action has been postponed due to bereavement
- On 5 occasions the employee left during a disciplinary process
- 1 discipline confirmed the employee's rights to work in the UK had expired
- 6 still in progress

Section 7 - Capability Action & Outcomes

1. The numbers subject to capability action are a small percentage of all employees (*References data 27 & 28*), 22 concluded cases represents 0.4% all employees, (key data).
2. Where there are such small numbers drawing conclusion based on more detailed levels, e.g. gender, ethnic profile or disability is questionably valid.

Reference data 27

Capability action by gender & by disability

	Female	Male	Total	Of those - disabled
Dismissal	7	1	8	4
Final written warning		2	2	
Written warning	1		1	
Other outcomes	4	2	6	2
No action	1		1	
Total	13	5	18	6

Reference data 28

Capability action by broad ethnic origin

	BME employees	White employees	Total
Dismissal	7	1	8
Final written warning	2		2
Written warning	1		1
Other outcomes	4	2	6
No action	1		1
Total	15	3	18

Section 8 - Staff Complaints

Note this data relates to individual employee complaints that require a formal process to resolve. Many complaints can be resolved informally or through mediation; all parties are encouraged to pursue such actions as a first step.

1. The numbers of staff that submit a formal complaint at stage 1 are very few. (*Reference data 29 & 30*); 23 employees represent 0.5% of the workforce. (*Key data*).
2. Stage 2 complaints are those where the employee is not satisfied with the outcome at stage one and identifies grounds for appeal.
3. Where there are such small numbers drawing conclusions at a more detailed level, e.g. gender, ethnic profile or disability is questionably valid.

Reference data 29

Stage 1 complaints by gender & by disability

	Female	Male	Total	Of those - disabled
Informal resolution	4	2	6	
Not upheld	7	5	12	2
Partially upheld	1	4	5	1
Total¹	12	11	23	3

¹ In addition 1 stage 1 registered complaint was withdrawn.

Reference data 30

Stage 1 complaints by broad ethnic origin

	BME employees	White employees	Not stated	Total
Informal resolution	4	2		6
Not upheld	5	5	2	12
Partially upheld	2	3		5
Total¹	11	10	2	23

¹ In addition 1 stage 1 registered complaint was withdrawn.

Reference data 31

Stage 2 complaints by gender & by disability

	Female	Male	Total	Of those - disabled
Not upheld	4	1	5	0
Partially upheld		1	1	0
Total	4	2	6	0

Reference data 32

Stage 2 complaints by broad ethnic origin

	BME employees	White employees	Not stated	Total
Not upheld	2	2	1	5
Partially upheld		1		1
Total	2	3	1	6

Section 9 - Respect at Work

Note; the procedure will cover complaints on all forms of harassment, bullying or victimisation on the basis of someone's profile.

1. The numbers of employees making a formal complaint are few; 24 employees represents than 0.5% of the workforce.
2. Where there are such small numbers drawing conclusions at a more detailed level, e.g. gender, ethnic profile or disability is questionably valid.

Reference data 33

Complaints by gender & by disability

	Female	Male	Total	Of those - disabled
Informal resolution	3	1	4	
Not upheld	8	5	13	
Upheld	2	1	3	1
Partially upheld	4		4	
Total¹	17	7	24	1

¹ In addition 3 complaints were withdrawn.

Reference data 34

Complaints by broad ethnic origin

	BME employees	White employees	Not stated	Total
Informal resolution	3	1		4
Not upheld	11	2		13
Upheld	1	1	1	3
Partially upheld	1	3		4
Total 1	16	7	1	24

¹ In addition 3 complaints were withdrawn.

Section 10 - Recruitment

- The following looks at recruitment projects over the year 2014-15. A recruitment project is an advertised job(s) with a defined closing date. More than one media (advertisements) may be used in each project. The following looks at 386 recruitment projects that were competed during the year; of these

- There were 32, each with 50 or more applicants.
- There were 158, each with 5 or less applicants.

Some jobs have been the subject of more than one recruitment project. For example, Advanced Practitioner appears several times, each project is counted separately. Only those projects that attracted an applicant response are shown. Applicants who withdrew from the process are excluded completely from the details below.

- Overall there were 6,641 people who pursued an application. Whilst it is difficult to identify multiple applications, (to do so would require examination of individual records to verify what appear to be the same names), this occurs. For example there are instances of people making 8, 9, 10 applications to the council. Frequency of occurrence is unlikely to notably skew the figures but a factor.
- Looking at gender and disability the success of people at different stages of the recruitment process are in line with the percentages of people who applied, i.e. female / male, not disabled / disabled, (*Reference data 35 & 36*).

Reference data 35

Gender

Female applicants, 3514; Male applicants, 3127.

Status	Female	Male	Total
Hired	53%	47%	100%
Shortlisted	54%	46%	100%
Applicants	53%	47%	100%

* Hire here means an offer of appointment, not that the person has yet started work

Reference data 36

Disability

Disabled applicants, 397; not disabled applicants, 6244.

Status	Disabled	Not Disabled	Total
Hired	6%	94%	100%
Shortlisted	6%	94%	100%
Applicants	6%	94%	100%

* Hire here means an offer of appointment, not that the person has yet started work

4. When looking at broad ethnic origin, (Reference data 37,) the significant outcomes to note are –

- The percentage of applicants from BME communities 66% (4351 people).
- The percentage of hires from BME communities 52%, (297 people).

Both percentages are higher than the proportion of people from BME communities living in Southwark (45.8%) or London (40.2%) – 2011 census.

Unlike gender and disability where the percentages of people from different profiles remain constant through the recruitment stages, BME applicants become less successful through the stages, albeit still the larger proportion, (Reference data 37).

Reference data 37

Broad Ethnic Origin

BME applicants 4351, White applicants 2290.

	BME	White	Total
Hired	52%	48%	100%
Shortlisted	58%	42%	100%
Applicants	66%	34%	100%

* Hire here means an offer of appointment, not that the person has yet started work

5. In part this can be explained by the recruitment projects with very large response rates; 50 or more applicants, (Reference data 38). These attracted very large numbers of applicants from the BME community. But also means that very large numbers of people from BME communities were “rejected” (1670 at shortlisting stage); skewing the percentages above (Reference table 37). For the recruitment projects with large response rates, (Reference data 38), whilst there is still difference between the success of applicants from BME communities & the success of white applicants through the different stages, this is less stark. It is also notable that there is very little difference here between the proportion shortlisted (68%) and hired (67%). Before interview stage, recruiters would have no reliable information which could reasonably determine an applicant’s ethnicity.

Reference table 38

Recruitment projects with over 50 applicants each

Numbers of projects	32
Numbers of applicants	2842

Outcomes

BME applicants 2064, White applicants 778

Status	BME	White	Total
Hired	67%	33%	100%
Shortlisted	68%	32%	100%
Applicants	73%	27%	100%

* Hire here means an offer of appointment, not that the person has yet started work

Section 11 – Agency Workers

1. Agency workers are not employees of the Council. But are an important resource in the delivery of the council's services. On the first working Monday of each month a snapshot is compiled of agency workers in use.
2. Monitors over the financial year 2014-15 show that numbers ranged from 338 to 436. In the last quarter (January to March 2015) numbers were fewer and more consistent month on month. (Reference data 39)

Reference data 39

Agency Workers – numbers via monthly snapshot 2014-15¹

Month	Agency Total
April-14	358
May-14	401
Jun-14	436
Jul-14	403
Aug-14	407
Sep-14	393
Oct-14	385
Nov-14	419
Dec-14	429
Jan-15	338
Feb-15	361
Mar-15	361

¹ The numbers of agency workers in use as at the monitoring date, i.e. first working Monday of each month.

3. The average numbers in use over the year was 391 workers. This compares with 343 the previous year.

Information on the community in Southwark & other London Boroughs

Southwark's workforce is drawn from across London & the South-east of England approximately 27%¹ of our staff were Southwark residents. It is however interesting to look at how the profile of the workforce compares to the Southwark community and where possible across London.

⁽¹Borough residency is not an indicator on HR records and this figure has been compiled from home address/ post code information).

This Section provides some basic information about the Borough drawn from the 2011 census.

It also includes key data comparing the council's workforce with other London boroughs. Albeit this must viewed with caution. Increasingly the services provided will differ between boroughs. This will, for example, impact on the gender profile where particular services remain male or female dominated. Service type and organisation size is also known to affect how organisations perform, for example sickness absence tends to be higher in large multi functional organisations.

Some key data is as follows.

Census data - Southwark borough

All data drawn from ONS census 2011 – key statistics

1. Population figures, gender & economically active comparisons

	Southwark borough information	England Country
2011 Population: All Usual Residents	288,283	53,012,456
2011 Population: Males	142618	26069148
	49.5%	49.2%
2011 Population: Females	145665	26943308
	50.5%	50.8%
Economically Active; Employee; Full-Time	42%	39%
Economically Active; Employee; Part-Time	9.9%	13.7%
Economically Active; Self-Employed	10.0%	9.8%
Economically Active; Unemployed	6.0%	4.4%
People aged 16 and over with 5 or more GCSEs grade A-C, or equivalent	10.2%	15.2%
People aged 16 and over with no formal qualifications	16.3%	22.5%

2. Occupations of all people in employment, March 2011

	Southwark	England
Managers, directors and senior officials	11%	11%
Professional occupations	26%	18%
Associate professional and technical occupations	17%	13%
Administrative and secretarial occupations	10%	12%
Skilled trades occupations	7%	11%
Caring, leisure and other service occupations	8%	9%
Sales and customer service occupations	7%	8%
Process, plant and machine operatives	3%	7%
Elementary occupations	12%	11%

3. Ethnic Origin

	Southwark – Borough (Numbers)	(%s)	London – Region (%s)	England – Country (%s)
All Usual Residents	288283			
White; English/Welsh/Scottish/Northern Irish/British	114534	39.7%	45%	79.8%
White; Irish	6222	2.2%	2%	1.0%
White; Gypsy or Irish Traveller	263	0.1%	0%	0.1%
White; Other White	35330	12.3%	13%	4.6%
White		54.2%	59.8%	85.4%
Mixed/Multiple Ethnic Groups; White and Black Caribbean	5677	2.0%	1%	0.8%
Mixed/Multiple Ethnic Groups; White and Black African	3687	1.3%	1%	0.3%
Mixed/Multiple Ethnic Groups; White and Asian	3003	1.0%	1%	0.6%
Mixed/Multiple Ethnic Groups; Other Mixed	5411	1.9%	1%	0.5%
Mixed		6.2%	5.0%	2.3%
Asian/Asian British; Indian	5819	2.0%	7%	2.6%
Asian/Asian British; Pakistani	1623	0.6%	3%	2.1%
Asian/Asian British; Bangladeshi	3912	1.4%	3%	0.8%
Asian/Asian British; Chinese	8074	2.8%	2%	0.7%
Asian/Asian British; Other Asian	7764	2.7%	5%	1.5%
Asian		9.4%	18.5%	7.8%
Black/African/Caribbean/Black British; African	47413	16.4%	7%	1.8%
Black/African/Caribbean/Black British; Caribbean	17974	6.2%	4%	1.1%
Black/African/Caribbean/Black British; Other Black	12124	4.2%	2%	0.5%
Black		26.9%	13.3%	3.5%
Other Ethnic Group; Arab	2440	0.8%	1%	0.4%
Other Ethnic Group; Any Other Ethnic Group	7013	2.4%	2%	0.6%
Other		3.3%	3%	1.0%
Totals		100.0%	100.0%	100.0%

Other Boroughs

The following information relates to year 2014/15. The data that is shown is based on no fewer than submissions from 29 of the 32 London boroughs although not every borough will have submitted data for every area.

In considering this information –

- The London mean (average) data is shown.
- It must be re-emphasised that there are significant differences in the organisations presenting data, e.g. Newham has around 5000 directly employed staff (headcount), Richmond shy of 1500 directly employed staff (headcount).
- Organisations collect and define data in different ways, e.g. some councils extrapolate from survey information others such as Southwark rely on actual declarations.
- Only data which links to Southwark's statistics shown in the body of this report is shown.

1. Headcount of employees

- 2,830 staff

2. Average age

- 45.64 years. Across London boroughs those in 16-24 years age band are 3.47% of the workforce. (Note there are significant variations in data submitted by boroughs in response to this question, one borough's return being 0.5%, another 7.8% - which is out of step with all other responses)

3. Gender profile

- Male 39.96%
- Female 60.04%

4. Disabled staff

- 5% of the workforce

5. Broad Ethnic Origin

Not known – 8.45% of remainder

Broad Ethnic Origin	%
Asian (inc Chinese)	10.82%
Black	20.72%
Mixed	2.92%
White	63.4%
Other	2.14%

6. Length of Service

Range	%
Less than a year	7.95
1 - < 2 years	8.63
2 - < 3 years	6.92
3 - < 5 years	8.68
5 - < 10 years	24.1
10 - < 15 years	18.32
15 - < 20 years	7.84
20 years & above	14.32

Sickness Absences

- Average sickness days per person 7.5 days
-

Item No. 18.	Classification Open	Date: 7 June 2016	Meeting Name: Cabinet
Report title:		Thames Water – Refund of Overpayments and Future Arrangements	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Stephanie Cryan, Deputy Leader and Cabinet Member for Housing	

FOREWORD – COUNCILLOR STEPHANIE CRYAN, DEPUTY LEADER AND CABINET MEMBER FOR HOUSING

Following a recent High Court ruling regarding the Council’s contractual relationship with Thames Water the Council needs to re-evaluate how our tenants are charged for water rates and our future relationship with Thames Water.

The preferred option is to terminate the Council’s contractual agreement with Thames Water, meaning that our tenants would have a direct billing arrangement for their water rates, but it is important that we consult with our tenants prior to any formal decision being made.

We also need to ensure that we help and support our most vulnerable residents in any transition from the current arrangements to taking on their personal responsibilities if we go ahead with the preferred option. We need to therefore take a measured approach and ensure that we engage with residents who may experience difficulties transitioning to make sure that there isn’t a negative impact on them.

This report also highlights the arrangements being put into place to refund overpayments to tenants following the High Court ruling and the need to make immediate refunds to existing tenants.

RECOMMENDATIONS

1. Cabinet agrees that the council proceeds with immediate refunds to current tenants, with interest calculated under the provisions of the Water Resale Order 2006, the refunds themselves covering the period 1 April 2001 to 28 July 2013, and with interest covering the period 1 April 2001 to 30 June 2016.
2. Cabinet instructs the strategic director of housing and modernisation to make necessary arrangements for refunds to former tenants covering the periods outlined in paragraph 1 to take place during the course of 2016 and beyond if required.
3. Cabinet agrees that the preferred option is to terminate the council’s contractual agreement with Thames Water.

4. Cabinet instructs the strategic director of housing and modernisation to consult with tenants on the proposal to terminate the contractual agreement with Thames Water, and to provide information regarding likely timescales, their personal responsibilities regarding water charges, and the options available to them once termination has been implemented.

BACKGROUND INFORMATION

Contractual arrangement with Thames Water

5. The council has, in common with a large number of other local authorities and social housing providers, a contractual arrangement with the local water supplier (in our case Thames Water). This arrangement was understood to be one by which the council was to provide billing and collection services, in return for a void allowance for empty properties and a commission to reflect both the administrative costs attached and the transfer of risk and bad debt associated with these accounts.
6. The contract has run for a number of years, and is mostly likely a direct “descendant” of the precepting arrangements in place when water companies were part of the public sector up until their privatisation by the Water Act 1989. In the 2016/17 HRA budget the gross charge for Thames Water which the council passes on to tenants was £13.6 million net of void allowance, whilst the commission income is £2.4 million. Leaseholders have a direct billing relationship with Thames Water, and the council plays no part in this. Similarly, some tenants have also chosen to opt out of the council’s arrangements and also have a direct billing relationship with Thames Water, however they are comparatively few in number.
7. Throughout this process, the council regarded itself as acting as an agent for Thames Water, and has had no input into, nor ever sought to vary the billing amount for each individual tenancy as calculated by Thames Water themselves.

Litigation background

8. In 2011 the council sought to evict a tenant for non-payment of rent and associated charges, including water charges. The tenant resisted the claim, and the tactic of his solicitors was to question the legality of every charge made by the council to the tenant since the commencement of his tenancy in 1999. After a protracted period of correspondence, the council took advice from counsel and brought a possession claim in the Lambeth County Court.
9. At trial the court found for the council in almost every particular regarding the legality of the charges that made up the tenant’s total rent liability; however the Judge was not minded to make a possession order because of reservations regarding the housing benefit position that the tenant found himself in. The tenant appealed, one of the stated grounds being that the court had erred in not finding the council to be a water reseller. This was listed at the Court of Appeal, but the case was settled with the tenant before the hearing commenced.

10. Following the conclusion of this legal action, the council felt it prudent to review the contractual arrangement with Thames Water in order to remove any possible ambiguity as to the legal relationship between the two parties, and with further advice from leading counsel, a Deed of Variation was drawn up, agreed with Thames Water and signed on 23 July 2013. The Deed explicitly states that the council is not acting as a water reseller under the relevant regulations.
11. On 15 October 2014, the council was served with a High Court claim commenced by a tenant residing in SE15 (N.B. not the tenant cited in paragraphs 8 – 10 above, though represented by the same firm of solicitors), seeking a declaration that the council was a water reseller as defined by the Water Resale Order 2006, and that as a consequence, that water charges made since the date that the regulations came into force should be recalculated under the provisions of that Order.
12. This case was heard at the High Court (Chancery Division) in February 2016, and on 4 March 2016 Newey J. found in favour of the tenant. However, there was an important proviso – the court had not felt equipped to judge on the effectiveness of the Deed of Variation since Thames Water was not a party to the tenant's claim. As part of settlement of the case, the tenant agreed that the Deed of Variation established that the council was no longer a water reseller after 23 July 2013.
13. Given the agreed position regarding the council's relationship with Thames Water post-July 2013, and bearing in mind the cost of further litigation, the chances of success, and the relative benefits to unmetered tenants as a whole, the council decided that the settlement was preferable to bringing an appeal on the "resale" issue, and continued litigation in connection with the Deed of Variation.

KEY ISSUES FOR CONSIDERATION

Water Resale Orders 2001 and 2006

14. Under the Water Resale Orders 2001 and 2006, the amount that a reseller can charge a third party must be calculated as a proportion of the sums paid by the reseller to the water supplier. The High Court judge found that the commission and void allowances, which until July 2013 were both deducted from the total sums paid by the council to Thames Water, should have been passed on to unmetered tenants in the form of lower bills. Taken together, the void allowance (5%) and commission (18%) is equivalent to 22.1% of the total charged to individual tenants for water. Under the terms of the Water Resale Orders, the council is allowed to charge an administration fee of 1.5p per day, which will be deducted from the total to be refunded.
15. The 2006 Order stipulates that overpayments by a reseller must be refunded including an element for interest equivalent to double the average Bank of England base rate for that period, calculated on a "simple" basis (i.e. the interest itself does not generate further interest).

Period covered by overpayment

16. Following the decision not to pursue an appeal, the council initially estimated that its total exposure would be c. £8.3 million, equating to an average refund of c. £240. This was on the basis that liability began six years before the High Court decision (April 2010).
17. Whilst the judgement was made in the context of the 2006 Water Resale Order, the council wishes to avoid any further legal challenge and draw a line under the matter. After taking further legal advice regarding both the applicability of a limitation period and the relative effect of the two Water Resale Orders, the council has reconsidered its position and formed the view that it would be both prudent and reasonable to extend the period of liability to the commencement of the first Water Resale Order (April 2001), and make refunds from that date up to 28 July 2013.
18. The financial implications of this are set out in the '*Financial context*' section below.

The refund process

19. The council estimates that over the refund period, c.48,000 individual properties generated water charge debits. This figure includes council dwellings made available for temporary accommodation purposes, and also properties that were void for all or part of the time – where no actual refund would be required. Further analysis indicates that c.31,000 current tenants commenced their tenancies either before, or during the refund period. Given that these tenants have an on-going relationship with the council, the physical process of making a refund should not be over-burdensome, and it is proposed that the council proceeds to do so.
20. However, this leaves a considerable number of potential cases where former tenants will be entitled to a refund of part of their water charges, and the council will not necessarily have contact data – indeed in some cases the tenant may now be deceased. In these cases it is proposed to calculate the refund where relevant occupancy data is available, and take all reasonable steps to make these refunds, including inviting former tenants to apply for refunds, dependent on them being able to prove occupancy for the relevant period. However, the council will seek to offset any current or former tenant arrears against the refund due.
21. The Deed of Variation was signed on 23 July 2013, and the council is not required to make any refunds in respect of water charges after this date. However, as rents and associated charges are accounted for on a weekly basis (Monday – Sunday), the refund period is therefore extended to 28 July 2013, to the benefit of tenants.

22. The council accepts that overpayments have not been addressed until the issuing of the High Court judgment in March of this year, despite the refund period ending in July 2013, and therefore intends to extend the period of interest calculation to 30 June 2016, being the earliest point at which refunds may reasonably be calculated and applied to tenant's accounts.

The future relationship with Thames Water

23. The council notes that Thames Water has around seventy broadly similar contracts with other London boroughs, district councils and housing associations within its footprint. It is understood that the company is now reviewing the status and content of these agreements in the light of the High Court judgment, and a new model contract may be forthcoming as a result.
24. However, the scale of financial exposure for Southwark, coupled with the fact that as it stands the judgment is solely against this borough, means that the council would be at risk of further legal action regarding any future arrangements between ourselves and Thames Water, and the only certain way to protect the organisation from this is to bring that agreement to an end. In addition, the council considers that the agreement will become less and less appropriate as the water market liberalises and additional options become available for tenants (in the same way as other utilities).
25. Given the circumstances, the council's preferred option is to terminate its agreement with Thames Water, subject to consultation with tenants. As part of the termination process, the council would provide Thames Water with occupancy details for all its directly managed properties and tenant management organisations.
26. An update report regarding the outcome of the consultation, progress on refunds, arrangements for termination and the help and assistance the council will provide to tenants switching to a direct relationship with Thames Water will be provided to cabinet later in 2016.

Implications for tenants

27. Termination of the agreement means tenants would then commence a direct billing relationship between themselves and Thames Water. This may seem less convenient to some, but it would allow individual tenants to take advantage of increasing choice as the water industry is opened up to further competition.
28. This may also incentivise tenants to explore potential ways to reduce their bills from Thames Water. For example, the Water Services Regulation Authority (Ofwat) requires water undertakers to offer a preferential rate to customers who have applied for a water meter but where one cannot be fitted. This Assessed Household Charge (AHC) is a pre-set charge whereby the lower of the rateable value-based charge or the AHC will be the one applied to the individual customer. Information on AHC was previously provided to Tenant Council, at their meeting of 4 January 2010.

29. Thames Water has never entertained applications by the council on behalf of individual tenants, and whilst this arrangement has been in place there has been little impetus for tenants to engage with Thames Water directly in connection with such issues. If there is no longer a relationship between the council and the water supplier, tenants would become more accustomed to managing this service themselves, and may benefit financially as a result. However, this of itself is not dependent on a decision regarding continuation or termination of the agreement. It is important to stress (as was made clear as part of the council's evidence to the Jones v Southwark action) that the council has only ever passed on charges calculated by Thames Water themselves. Termination of the agreement would in no way change that situation.
30. Thames Water also offers further preferential tariffs, known as "*WaterSure*" and "*WaterSure Plus*", designed to assist customers on low incomes. Once again, it is not within the council's purview to pursue this option on behalf of individual tenants, but it has the potential to be of benefit to a number of them. Details extracted from Thames Water's charges leaflet for 2016/17 regarding both AHC and WaterSure are reproduced in the tables below:

If we couldn't fit a water meter

We sometimes find we can't fit a meter at a property, which is usually due to location. If you have requested a meter, and we couldn't fit one, we offer a different charging rate called the assessed household charge.

Assessed household charges

The assessed household charge is based on the number of bedrooms in the property or, for those who live alone, a single occupier tariff, as shown below. In addition, you pay a fixed charge of £31.30 for water and £55.05 for waste water.

Band	Bedrooms	Water (£)	Wastewater (£)
1	0/1 bedroom	127.55	81.08
2	2 bedrooms	139.02	88.37
3	3 bedrooms	160.39	101.95
4	4 bedrooms	177.40	112.76
5	5 or more bedrooms	200.10	127.19
6	Single occupier	93.17	59.22

Source: Thames Water 2016/17

WaterSure and WaterSure Plus

The WaterSure and WaterSure Plus schemes are designed to help you pay your bill if you're on a low income.

Who is eligible? You, or someone in your household, must first be receiving one of the following:

- Income-related Employment and Support Allowance or Income Support;
- Income-based Jobseeker's Allowance;
- Housing Benefit;
- Pension Credit;
- Working Tax Credit;
- Child Tax Credit (other than just the family element); or
- Universal Credit.

If this is the case, then in order to qualify to have your bills capped (at £374 per year) under the WaterSure scheme, you need to have a water meter and meet one or both of the following criteria:

- three or more children under the age of 19 living in the household, and you (or the person responsible for them) claim Child benefit for them; or
- you or someone living in your household has a medical condition that means they use a lot of extra water.

WaterSure Plus applies to both metered and unmetered household customers. In order to qualify, in addition to the points above, your Thames Water bill must also account for 3 per cent or more of your total net household income, once mortgage and/or rent payments (net of receipts or allowances) for the household have been removed. ('Household income' includes the income of all members of the household.)

Eligible customers will have their total bill reduced by 50 per cent (excluding any previous charges).

Source: Thames Water 2016/17

Financial context

31. The total water debit generated by current tenants over the refund period is c. £70 million, former tenants c. £47 million and refunds (inclusive of administration fees and interest) is c. £28.6 million.
32. Given that refunds will be generated for all unmetered tenants over the period, the opportunity arises to offset rent arrears against the refund due. Individual circumstances will differ – in not all cases will the refund cover all the current arrears and so these tenants will see a reduction, but not elimination of their arrears position. Conversely, there may be a residual credit remaining which can be claimed back or left to mitigate against future charges. Overall, it is estimated that offsetting arrears in this way will reduce the council's liability by c. £4.6 million as a minimum.
33. Given the timing of the judgement, the council has accrued for the gross liability in the Housing Revenue Account in the financial year ending 31 March 2016. The sums due reflect the maximum refund payment considered possible to tenants during 2016/17. Any remaining liability in relation to former tenants beyond the end of this financial year will be addressed similarly as part of the statutory accounts next year.

34. Funding for this falls entirely to the HRA, and has been met through a combination of in-year revenue surplus, lower debt repayment, lower bad debt provision and lower contribution to the capital programme than would otherwise have been the case. The corollary of this was a drawdown of both revenue and capital reserves to fund the HIP in 2015/16, which saw programme spending at an all time high (c. £244 million). The greater than anticipated consumption of resources to cover this exceptional cost item in 2015/16, does compound the existing funding gap in the HIP in 2016/17 (as reported to Cabinet in February 2016). However, this position is likely to be moderated downwards during the year as expenditure phasing and resourcing forecasts are updated in light of better information, but it may be necessary to manage programme commitments, such that they match more closely the available resources in year.
35. However, the position regarding former tenants is more problematic as in most cases the council has no current relationship with them, and a staged refund process is therefore under consideration. Tenants that have exercised their right-to-buy during the refund period will in all likelihood still be in regular contact with the council as home owners, and the first stage will be to identify them and arrange for refunds to be made.
36. Other instances where there is no recent relationship to utilise will mean that the onus will have to be on the former tenant themselves to take the initiative and to apply for refunds, which once arrears are offset and proof of occupancy has been provided can be made as cash payments. It is probable that this facility will have to be made available over an extended period of time, and the council is currently working on assessing the best means of taking this forward.
37. In budget terms, the commission received from Thames Water (currently £2.4 million per annum), goes in to the ring-fenced HRA to fund the provision of landlord services. Termination of the agreement would mean that this funding stream would cease, but there will be no budgetary impact in the short-term whilst the agreement remains in place. However, the loss of this income stream will need to be taken in to account alongside other budgetary pressures, such as inflation, service commitments and growth as part of future HRA budget planning; possibly as soon as 2017/18 depending on the effective termination date.
38. Since the primary rationale for the commission in the first instance was to reflect the transfer of risk from Thames Water to the council and offset losses incurred through non-payment, some mitigation will accrue by virtue of a reduction in arrears and hence the need to make a lower provision for bad debts, which is a revenue saving. Notwithstanding the impending roll-out of direct payments on collection performance, it is considered that savings of up to £1.1 million could be made in the existing budget provision (based on the 2015/16 final accounts).
39. Whilst the administration of water charges is not overly burdensome, it may be possible to derive some marginal cost savings (c. £100k to £200k) across the wider income collection function as a result of termination, subject to more detailed activity analysis being undertaken.

40. In the wider context of budget savings, the imperative has always been to reduce overhead costs and increase operational efficiency without detriment to service delivery. As time goes on, the scope for this diminishes, but it remains the objective, but in the event, the HRA holds a revenue contingency budget of £1.5 million which could be applied to meet any residual shortfall.
41. Appendix A to this report sets out more detail regarding the methodology employed in the calculation of refunds and further information around arrears, bad debts and anticipated timescales.

Community impact statement

42. Under the Public Sector Equality Duty General Duty public authorities must have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation as well as to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.
43. The protected groups covered by the equality duty are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnerships, but only in respect of eliminating unlawful discrimination.
44. The council's "Approach to Equality", which was agreed by cabinet in December 2011, outlines the council's legal duties under the PSED General Duty and its obligations under the Human Rights Act 1998. It also sets out the council's commitment to embedding equality and human rights within the day-to-day responsibilities of all members, officers and contractors, as a part of day to day business.
45. It is essential that when decisions are made they take into account the public sector equality duty's general duty (PSED General Duty) as set out in section 149 of the Equality Act 2010. Officers will therefore undertake equality analysis of the options for the future and review these as appropriate as the results of the consultation become known through implementation of any changes arising. The analysis will be available in the later cabinet report on this issue.

Support for vulnerable residents

46. There is a range of support in place for vulnerable residents who may be less able to manage the payment of their own water bills. Thames Water have a dedicated Extra Care Team that provide a range of support for example providing large print, braille, audio format and coloured background paper for customers with visual impairments, textphone, sign language interpreters and a dedicated mobile phone number for texting during emergencies for people with hearing difficulties, additional help in the event of a water supply interruption or sewage flooding for the less mobile, and a doorstep password scheme to visit a customer's home.
47. The council has records of vulnerable tenants and can ensure that the appropriate co-ordinated support is available to those who need it.

48. Advice and support is also available from agencies like the Citizens Advice Bureau and other independent advice organisations including Step Change Debt Charity and National Debtline.
49. Section 44 of the Flood and Water Management Act 2010 enabled water companies to decide whether or not to bring forward a company social tariff as part of a package of targeted support to enable customers to pay their bills, including help with metering, payment methods, debt advice and water efficiency.
50. The intention of social tariffs is to deliver a wide range of benefits to water companies and their customers, including:
 - assisting low income households who would otherwise struggle to pay their bills in full;
 - helping to prevent new cases of bad debt arising as a consequence of non-payment of water bills that may be unaffordable, and helping to resolve the existing problem of bad debt;
 - enabling undertakers to design support schemes that are explicitly tailored to address local affordability problems and local affordability risks;
 - protecting unmetered low income households from unaffordable bills that may arise in areas with high levels of optant metering;
 - protecting low income households from unaffordable bills where an undertaker that has been designated an area of serious water stress has chosen to bring forward universal metering to help ensure a supply-demand balance; and
 - providing reputational and financial benefits to the undertaker through improved customer service and by placing a greater focus on the needs and views of customers.
51. In 2014/15 Thames Water introduced their social tariff for the most vulnerable customers to provide 50% discount on bills for qualifying customers. More than 7,000 customers have also benefited from their metered bill being capped through the WaterSure scheme.

Consultation and notification

52. As noted above, the recommended option under consideration by the council is termination of the agreement with Thames Water, and since this would affect the vast majority of current tenants, appropriate consultation will take place. The council will receive and consider responses to the consultation and report back to cabinet accordingly.
53. It is important that tenants are fully appraised as to the implications of termination, and the council will therefore provide information as to the rights and responsibilities of tenants as individual customers of Thames Water; the opportunities that this enables regarding their access to preferential tariffs; and the likely timescales involved as an integral part of the consultation process. This is not to say that tenants are not able to approach Thames Water directly regarding these alternative tariffs and charges at the moment – some have already done so, and now have a direct relationship with Thames Water.

54. In 2012 Southwark adopted a consultation framework that promised all our consultation would be:
- Universal;
 - Impartial;
 - Comprehensive;
 - Timely; and
 - Cost effective.
55. The stakeholders for this consultation are all current tenants who are subject to the current arrangement for paying water charges. It is therefore proposed that the consultation should be by a survey made available on the council consultation portal which will be promoted to residents in the letters that will reach them by the end of June confirming the refunds. Hard copies will be available for those residents who are unable to access or complete them online.
56. The consultation will provide information on the background and set out the reasons for the council's current suggested way forward and invite feedback on this option.
57. In terms of timescale the consultation will launch by 30 June 2016, allow six weeks for responses giving a closing date of 12 August 2016 with analysis complete for the end of August.
58. The consultation will also be monitored and analysed with the aim of ensuring that we receive responses from a representative sample of residents to give greater confidence in the results.

Statutory and contractual notifications

59. Subsequent to the approval of this report and its follow-up later in 2016, either as set out or as amended by cabinet, the passing of the necessary date for implementation, and subject to the consultation process outlined above, the council will then give notice to Thames Water to terminate the agreement to provide billing and collection services for water and waste water provision on the water company's behalf – the notice period as set out in the agreement with Thames Water being six months.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

60. Pursuant to Section 1 of the Local Authorities (Goods and Services) Act 1970 the council has the specific power to collect Thames Water's charges from tenants on Thames Water's behalf. As a consequence of the settlement with Ms. Jones in the High Court claim referred to above the High Court has declared that the council is not currently acting as a reseller.
61. The agreement between the council and Thames Water is a commercial agreement which, as noted above, can be terminated on six months' written notice to Thames Water.

62. Statutory consultation requirements with secure tenants are set out in Section 105 of the Housing Act 1985 (and similar requirements relating to introductory tenants in the Housing Act 1996). Section 105 requires that a landlord authority:
- “(1) ...shall maintain such arrangements as it considers appropriate to enable those of its secure tenants who are likely to be substantially affected by a matter of housing management to which this section applies
- (a) to be informed of the authority's proposals in respect of the matter, and
- (b) to make their views known to the authority within a specified period;
- and the authority shall, before making any decision on the matter, consider any representations made to it in accordance with those arrangements.
63. The section applies to matters of housing management which in the opinion of the landlord authority, represent a change in the practice or policy of the authority and are likely substantially to affect its secure tenants.
64. For the purposes of the section, a matter is one of housing management where in the opinion of the landlord it relates to “*the management, maintenance, improvement or demolition of dwelling houses...or the provision of services or amenities in connection with such dwelling houses*”.
65. It is noted that the council intends to consult tenants on the issue of terminating the agreement with Thames Water.
66. The law required consultation must be undertaken when proposals are still at a formative stage; it must include sufficient reasons for the proposals to allow interested parties the opportunity to consider the proposal and formulate a response, allow adequate time for interested parties to consider proposals and formulate their response and the outcome of it must be conscientiously taken into account when the ultimate decision is taken,. These are the central requirements for fair and proper consultation and should be applied at all stages of the consultation process.
67. The judgment in the Supreme Court case of *Moseley v L.B. Haringey* 2014 indicates that fairness requires the consultation plan to be kept under regular review to ensure that all interested parties are included, that they are provided with clear and accurate information that contains sufficient detail of the proposals, the reasons for them and, where appropriate, refer to alternatives, including those disregarded and the reasons for disregarding them, that consultees have sufficient time to consider the proposals, to respond to them, including putting forward alternatives.
68. Due regard must also be had to the impact proposals may have on persons with protected characteristics under the Equality Act 2010; the equality assessment should therefore be reviewed, updated and considered regularly.

Strategic Director of Finance and Governance (FC16/005/SR)

69. This report is concerned with the consequences arising from the High Court judgement of March 2016, and specifically the decision to refund sums overpaid and the proposed termination of the council's contractual agreement with Thames Water going forward.
70. The council has accrued for the gross liability in the Housing Revenue Account in the financial year ending 31 March 2016. The sums due reflect the maximum refund payment considered possible to tenants during 2016/17. Any remaining liability in relation to former tenants beyond the end of this financial year will be addressed similarly as part of the statutory accounts next year.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
HRA Final Rent-Setting and Budget 2016/17	160 Tooley Street London SE1 2QH	Paula Thornton Constitutional Team 020 7525 4395
Web link: HRA Final Rent Setting and Budget 2016-17		

APPENDICES

No.	Title
Appendix A	Refund Methodology and Financial Assumptions

AUDIT TRAIL

Cabinet Member	Councillor Stephanie Cryan, Deputy Leader and Cabinet Member for Housing	
Lead Officer	Gerri Scott, Strategic Director of Housing and Modernisation	
Report Authors	Ian Young, Departmental Finance Manager, Housing and Modernisation Stephen Douglass, Director of Communities	
Version	Final	
Dated	26 May 2016	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS/DIRECTORATES/CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Date final report sent to Constitutional Team		26 May 2016

APPENDIX A

REFUND METHODOLOGY AND FINANCIAL ASSUMPTIONS

Part 1 – Refunds

Previously, a very general assessment was made using relevant budgets to arrive at an average refund figure of £240 – using the initial refund period of 1 April 2010 to 23 July 2013.

A more detailed calculation has now been done, rolling back the start date for refunds from 2010 to April 2001.

- The total water charge raised for individual tenancies for each year from April 2001 to March 2013, and for the first seventeen weeks of 2013/14 (to take the calculation to 28 July (being the end of the rent week containing 23 July 2013));
- Each of these debits has had 22.1% applied to it (being the equivalent of the commission and void allowances granted by Thames Water) to generate a gross refund for each year;
- The administration fee of 1.5p per day permitted under the Water Resale Order 2006 is then applied;
- Interest at twice the average annual the Bank of England Base Rate is then applied to the subsequent total, as prescribed by the Water Resale Order 2006; and finally
- Interest is rolled forward from 29 July 2013 to 30 June 2016 at twice the Bank of England Base Rate over that period (1.0%) to reflect that overpayments have been outstanding from then to the anticipated date of refund.

The table below sets out the total water charge and each of the stages above, separated into current and former tenants.

1 April 2001 – 28 July 2013	Cases	Water Charge £m	Gross Refund £m	Admin. Fee £m	Interest 2001-2013 £m	Interest 2013-2016 £m	Total Credits £m
Current tenants	31,070	70.2	15.5	(1.5)	2.7	0.4	17.1
Former tenants	43,358	46.8	10.3	(1.1)	2.1	0.2	11.5
Total cases	74,428	117.0	25.8	(2.6)	4.8	0.6	28.6

Notes:

1. *Data regarding temporary accommodation cases is not included within this analysis.*
2. *The council does not hold individual tenant details for TMO-managed properties centrally, as a reflection of the local management arrangements, and the refund exercise for individual TMO's will have to be conducted separately as a consequence.*
3. *A number of current tenants form a sub-set of the former tenant dataset, where they have occupied an alternative council property within the refund period before their current one.*

For current tenants, roughly speaking the average refund will be £550. For former tenant cases, the figure is less certain, but is estimated at present to be around £265. This is lower given the greater number of cases in this category and the likelihood of a shorter occupancy period to base the refund upon. It is important to note that an individually calculated refund figure will be dependent on a number of variables, since the water charge itself as supplied to the council by Thames Water is based on rateable values, which gives rise to a greater variety of original debits. The water charge was also updated annually by Thames Water, so the timing of occupancy will also affect the final amount arrived at.

Part 2 – Rent arrears

Where possible, the council intends to offset refunds against arrears, in order to assist tenants in the management of their rent accounts. Not all the aggregate arrears of £15.1 million can be utilised in this way – there must be a matching exercise to allow individual cases to be offset where this is possible. An early estimate of the proportion available to be utilised in this way is £4.6 million, as the table below sets out.

The position regarding current tenant and former tenant accounts is somewhat different, due to the age of some of the data regarding the latter, and historic decisions taken regarding the write-off of arrears. In some cases these write-off decisions will have been taken upwards of ten years ago. It is also the case that current tenants will be more likely to have smaller, much more short-term profile arrears.

As at early May 2016, the rent account position of the cases cited in Part 1 above may be summarised as follows:

	Cases	In credit	Nil balance	In arrears	Arrears £m
Current tenants	31,070	17,103	308	13,659	10.2
Former tenants	43,358	9,837	29,891	3,630	4.9
Total cases	74,428	26,940	30,199	17,289	15.1

Analysis of the individual cases gives the following likely application of refunds as an offset against arrears:

	Arrears £m	Likely offset £m	Arrears remaining £m	Net refunds £m
Current tenants	10.2	3.5	6.7	13.6
Former tenants	4.9	1.1	3.8	10.4
Total cases	15.1	4.6	10.5	24.0

Notes:

1. *Arrears less likely offset = arrears remaining.*
2. *Net credits (in Part 1) less likely offset = net refunds.*

Part 3 – Non-directly managed stock

With regard to TMOs; the basis of refund calculation will be the same across the council's stock. However, as noted in Part 1 above, arrears and occupancy data is the province of the individual TMO.

In terms of temporary accommodation, between 200 – 500 properties per year were made available for short-term lets across various estates in the course of their regeneration. Water charges were raised on these properties as appropriate, and refunds and arrears offset exercises will be completed in due course.

Part 4 – Bad Debts

In terms of the gross rent debit, water charges equate to around 5.5% of the total. However, data on housing benefit for individual tenancies indicates that of the total sum demanded, since the water charge is not benefitable, this element increases to a proportion of 10.8% of the total. This has implications for the calculation of bad debt provisions if water charges are no longer collected by the council. Running the calculation of this provision with an assumed on-going reduction in arrears of 10.8% leads to a one-off reduction of £1.1 million (from £10.7 million to £9.6 million).

Part 5 – Timescales

The physical generation of credits to rent accounts is unaffected by any decision that may be made regarding the future relationship between the council and Thames Water.

First Tranche

Given that current tenants have an on-going relationship with the council, there are few impediments to processing refunds for this set of cases in a timely manner, and therefore the council proposes setting this in train immediately following the first cabinet report (June 2016).

Second Tranche

Over the refund period (1 April 2001 – 28 July 2013), 6,369 properties were sold subject to the right-to-buy (5,955 leasehold, 395 freehold, 19 shared ownership). As part of the conditions for these sales, home owners commence an immediate direct relationship with the water undertaker upon completion. Where these properties have not been sold on to third-parties, the original purchaser/tenant will therefore also have an on-going relationship with the council, and so the council intends to concentrate on these cases as the second tranche of refunds, during summer/autumn 2016.

Third Tranche

Work on generating refunds and identifying recipients for non-directly managed stock (TMO's and temporary accommodation) will be undertaken in parallel to that for home owners. Where the recipient has a live rent account with the relevant tenant management organisation, or with Housing Solutions, then refunds will be processed at the earliest opportunity.

Fourth Tranche

Former tenant cases (i.e. not current tenants in another property, or recent RTB purchasers) present a genuine problem in terms of tracing and processing for refund generation and in a number of instances, the former tenant may be deceased. The council wishes to make every reasonable effort to re-establish the connection with former tenants to facilitate a conclusion to this process, but acknowledges that this may take an extended period of time, and where invitations are made to claim a refund on this basis, reserves the right to seek proof of occupancy from the claimant before making a refund.

Item No. 19.	Classification: Open	Date: 7 June 2016	Meeting Name: Cabinet
Report title:		Progress Report on My Southwark Homeowners Agency	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Stephanie Cryan, Deputy Leader and Cabinet Member for Housing	

FOREWORD – COUNCILLOR STEPHANIE CRYAN, DEPUTY LEADER AND CABINET MEMBER FOR HOUSING

Southwark leaseholders deserve to know that they are getting a good service from the council but unfortunately many don't currently believe this is the case. One of our manifesto pledges is the commitment we made to put leaseholders in charge and to establish an independent leaseholder management company to hold the Council properly to account. This is also in the council plan agreed by cabinet in December 2015.

Last December cabinet agreed that the council set up a new homeowner agency, to be known as My Southwark Homeowners, which would help to overcome the sometimes negative perceptions that a number of our leaseholders have.

The new service will be overseen by an independent board, the My Southwark Homeowners Board, made up of homeowners and other professionals with an interest in leasehold matters. We believe that this service is the first of its kind and it will be delivered within the costs of delivering homeowner services.

As part of the service homeowners now have access to an extended arbitration service and this has been well received. As part of the service it is essential that homeowners know what they are paying in service charges and why and this new agency will ensure that this happens.

This report provides an update on the establishment of the new agency. Good progress has been made but there is more to do to get it up and running this summer. The work done so far and the results of consultation have shown that the new agency is needed and leaseholders welcome the new approach. It is important that our homeowners have a say in the set up of their new service, which is why we will continue to consult through all stages of the process.

RECOMMENDATIONS

Cabinet is recommended:

1. To note the progress being made on the creation of the new My Southwark Homeowners service as agreed by Cabinet in December 2015.

BACKGROUND

2. Leaseholders and freeholders of council property known as homeowners, represent a large and growing group of residents. There are presently over 15,000 council homeowners in Southwark and that number continues to grow.
3. The council plan agreed by cabinet in 2015 committed to establishing an independent leaseholder and freeholder management company to improve the relationship between the council and its homeowner population. The aim of the new agency is to make homeowners feel more valued by making services more transparent and giving homeowners a say on how they might be operated.
4. The proposals for the new service included:
 - a new face-to-face service
 - a dedicated phone line
 - a better website
 - a new arbitration service
 - a new independent board to represent homeowners
5. Good progress is being made across all work streams including the completion of an 8 week advocacy pilot, the introduction of an arbitration service for homeowners, the formation and terms of reference of the My Southwark Homeowners Board and the development of the organisational structure for the new service.
6. This report sets out the feedback from the consultation with homeowners and progress in the development of the new service, which is planned to go live in August/September 2016.

KEY ISSUES FOR CONSIDERATION

Consultation

7. Homeowners were asked what they thought of the proposals for the new service, with consultation taking place via the council's Consultation portal. The consultation took place between 22 October and 11 December 2015, 665 responses were received, and 92% of respondents were in support of the proposals.
8. The size of the response gives the council a high level of confidence that it reflects the views of the wider population of homeowners, as well as providing valuable information about the profile of homeowners and how they would wish to engage with the council in the future.
9. The key information from the consultation was as follows:
 - a high proportion of council homeowners are not the original occupant who purchased the property via the right to buy but instead bought on the open market
 - there is an even split between those wanting to use the internet or the telephone to contact the council
 - homeowners are generally content with a service which is provided during office hours
 - the majority of homeowners welcomed the proposal for an advocacy service
 - homeowners were keen to have a service which ensured value for their money

- finally, and perhaps not surprisingly, the key current issues are major works, repairs and service charges.
10. Officers also attended meetings of the Homeowners Council, Tenants Council, LAS2000 and Area Forums to discuss the proposals. Each of these meetings generated constructive discussion and feedback. Homeowners Council also committed to setting up a small working party to consider the proposals in more depth, and in particular the development of the board.

Progress on the development of My Southwark Homeowners (MSHO)

11. The responsibility for developing and implementing the new MSHO service sits with the customer experience division within Housing and Modernisation. A board, which includes officers from Exchequer, Asset Management and Customer Experience divisions, was set up in October 2015. The board is chaired by the Strategic Director Housing and Modernisation and oversees the progress of the project. The main areas of focus have been the delivery of the advocacy pilot, the arbitration panel pilot, the development of the independent board and on-going engagement and communication with key stakeholders.

Advocacy Pilot

12. One of the primary aims of the new MSHO service is to act as an advocate for homeowners and to take up their concerns with those responsible for providing services. The advocacy service aims to provide an additional level of challenge, on the homeowner's behalf, without the need to raise a formal complaint, to make an application for arbitration or to apply to the First Tier Tribunal.
13. Historically, homeowners' perception has been that their relationship with the council has been one of receiving a bill with an expectation that they pay it. The MSHO approach seeks to provide a more customer focussed service which is listening and responding, open and transparent. The advocacy service is intrinsic to the new approach and provides an opportunity for homeowners who are querying any aspect of their routine relationship with the council, such as the veracity of their service charges, lease enquiries, permissions for alterations etc., and to have these investigated on their behalf to see whether a resolution can be achieved without the need to instigate more formal action.
14. The purpose of the advocacy service is to offer advice and case management to homeowners who are unsure about, or dispute any aspect of, repairs, major works, estate services, or service charge construction. The service will work with internal stakeholders to create a continuous improvement model that reviews, consults and ultimately improves internal processes and an improved Homeowner experience.
15. The advocacy pilot, which ran for eight weeks from the beginning of February 2016, tested what the likely demand would be for this service and what the resource requirements might be for the future.
16. The cases for the pilot were identified by the service charge collection team who referred cases where resolution could not be achieved in the ordinary interaction around service charges and billing.
17. The 37 cases scrutinised were confined to last year's actual bills for revenue service charges and did not include major works. Feedback was gathered from

the homeowners involved via online questionnaire. The key lessons learned are summarised below.

18. Homeowners were very positive about the service and the opportunity to have their query thoroughly investigated at arms length. Even when no changes were made to the charges, the homeowner was satisfied that the council was prepared to investigate, explain fully why they were being charged and evidence clearly the work that was carried out.
19. The pilot identified that, historically, record keeping was poor. Although asset management information is now properly recorded and captured on the council's asset management system Apex, service charges can often relate to services which were provided some years hence. The unavailability of contract records, invoices and other materials such as photographs and certificates can lead to significant challenge around the veracity of services charges. In recent times, there has been a great deal of work carried out to ensure that the full details for works are captured on electronic data management systems, and are evidenced, for example, by contractors providing before and after photographs however poor record keeping has been identified as an on-going risk to the council's ability to ensure full cost recovery for works carried out.
20. During the pilot, the advocacy team made recommendations for process changes to address specific concerns around processes and systems, particularly within asset management.
21. In the last 3 years, the council has written back c. £600k per annum in homeowner service charges. During the pilot, services agreed to write back £11k. In the short-term, officers assume an increase in write-backs as advocates deal with 'old' cases, however the pilot has already demonstrated the need for continuous scrutiny, learning and improved practice which should contribute to a reduction in write-backs over the longer term as core services improve their processes.

Arbitration

22. An issue of particular concern to homeowners was their restricted access to the council's unique arbitration service. Up until now, homeowners were only able to access the arbitration service in very limited circumstances; specifically service charge matters were excluded.
23. A six month pilot started on 1 March 2016 to extend access and allow matters related to disputes around the 2014/15 service charge actual bills to be considered.
24. A new arbitration application form has been developed and is accessible via the council's website. A panel consisting of an existing arbitration panel chair, 1 homeowner, 1 councillor and 1 suitably qualified legal representative have been trained as have other panel members.
25. To date, two applications for arbitration have been received, both of which were identified from the advocacy pilot with the first case heard on 19 April.
26. Both the advocacy and arbitration pilot services provide an additional service to homeowners which would not have been available to them prior to the development of the MSHO agency. Previously, leaseholders would have had to

raise a formal complaint or apply to the First Tier Tribunal for their case to be heard, with all of the costs associated with making that application. Although both of these options are still available to homeowners, the new services provide better customer service and a willingness to see whether a shared resolution can be found in the first instance.

MSHO Board and Constitution

27. The independence of the MSHO service will be provided through the creation of a steering board, the My Southwark Homeowners Board, which will include homeowner representatives.
28. A constitution and terms of reference for the MSHO Board have been drafted, which describe the work of the board, its functions and responsibilities and its relationship with other council services and representative resident bodies. The constitution provides the board with the opportunity to independently scrutinise council services and performance. Job descriptions have been drafted for the chair and board members and it is anticipated that there will be open recruitment for these roles in the summer. The proposals for the formation of the board have been shared with Homeowners Council and their working party will be considering these along with other aspects of the new service.

Customer Services

29. Plans are well underway to develop the bespoke customer service offer for homeowners. This includes a dedicated telephone service and a new face to face service to be located at Market Place, Bermondsey. The new customer access point for homeowners will replace some of the services currently provided at the Abbeyfield office and will also host the advocacy team.
30. In the consultation feedback, homeowners were critical of staff's inadequate training and knowledge to be able to deal effectively with complex homeowner queries. Through the dedicated customer services function, appropriate training and expertise will see a gradual and continuous improvement in knowledge amongst the staff group resulting in a more professional and customer focussed service.

Online presence

31. Officers have been constructing more efficient and smarter customer journey maps for high volume home ownership processes, mainly those carried out in the Sales and Acquisitions Team. The new 'permissions' process on-line form will be launched shortly and should improve the application process, making it easier to receive payments and speeding up the decision making process.
32. A huge amount of progress has been made in this area which at December 2014 had a backlog of 700 applications from homeowners wishing to carry out improvements or requesting modifications to their lease. The backlog has now been eradicated and automation of these processes is the next stage in improving the quality of this service to homeowners.
33. Other customer journey maps have been undertaken for the Right to Buy process, the Social Home-Buy Scheme, cash incentives for home ownership and the process for requesting the new advocacy scheme. Staff have been fully trained on the new procedures for and web page creation which will help to fulfil

one of the key aims of the MSHO project which is to improve the website presence and make the service easier to access and deal with.

MSHO Organisational Structure

34. A draft structure which includes the functions of Sales and Acquisitions, Customer Services, MSHO Board support, Advocacy and Arbitration is currently being consulted upon with staff and is intended to be fully live by August 2016. It is intended that the team will be created from existing resources.

Financial implications

35. From the outset the plan has been to fund the new agency from within the existing costs envelope associated with the delivery of homeowner services. The organisation and staffing requirements are being considered at present. The function does however anticipate taking resources or funding from those areas already handling homeowners matters; contact centre, service points, exchequer services. The organisation requirements will be finalised shortly as will the necessary funding and sources of funding.

Next steps

36. The development of the new service has been cautiously welcomed by homeowners. There is recognition that the council is trying to develop a new more positive relationship with owners of council property and there has been good input from homeowners, particularly in response to the online survey. There has also been a great deal of interest from other local authorities in what the council is seeking to achieve, as homeowners generally are much less satisfied with landlord services than tenants of council property.
37. Progress towards the new service is steady but there remains a lot more to be done to get the new service up and running by August 2016. The launch of the service is just the beginning and on-going success will be determined by the reaction of homeowners themselves through improved levels of satisfaction and fewer complaints.

Community impact statement

38. The development of this new approach to working with homeowners and a more positive relationship is intended to have a positive impact on the community.
39. Under the Public Sector Equality Duty General Duty public authorities must have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation as well as to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.
40. The protected groups covered by the equality duty are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnerships, but only in respect of eliminating unlawful discrimination.
41. The council's "Approach to Equality", which was agreed by cabinet in December 2011, outlines the council's legal duties under the PSED General Duty and its obligations under the Human Rights Act 1998. It also sets out the council's

commitment to embedding equality and human rights within the day-to-day responsibilities of all members, officers and contractors, as a part of day to day business.

42. It is essential that when decisions are made they take into account the public sector equality duty's general duty (PSED General Duty) as set out in section 149 of the Equality Act 2010. Officers will undertake further equality analysis as the service works through implementation of the changes.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

43. The report updates on the progress made on creating a new service for Southwark homeowners following cabinet decision in December 2015. As the project develops any legal and governance issues arising will need to be identified and addressed in consultation with the director of law and democracy and her staff.

Strategic Director of Finance and Governance (H&M 16/008 IY)

44. The report provides an update on the progress in relation to the creation of a new service for Southwark homeowners following the cabinet decision in December 2015. There are no specific financial implications identified at this juncture and the intention is that this is cost-neutral with staff/budgets being drawn from existing service areas. If, as the project develops, any financial issues do arise, these will be identified/addressed in subsequent cabinet reports.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title:
None	

AUDIT TRAIL

Cabinet Member	Councillor Stephanie Cryan, Deputy Leader and Cabinet Member for Housing	
Lead Officer	Gerri Scott, Strategic Director of Housing and Modernisation	
Report Author	Richard Selley, Director of Customer Experience	
Version	Final	
Dated	26 May 2016	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		26 May 2016

Item No. 20.	Classification: Open	Date: 7 June 2016	Meeting Name: Cabinet
Report title:		Motions Referred from Council Assembly	
Ward(s) or groups affected:		All	
From:		Council Assembly	

RECOMMENDATION

1. That the cabinet considers the motions set out in the appendices attached to the report.

BACKGROUND INFORMATION

2. Council assembly at its meeting on Wednesday 16 March 2016 agreed several motions and these stand referred to the cabinet for consideration.
3. The cabinet is requested to consider the motions referred to it. Any proposals in a motion are treated as a recommendation only. The final decisions of the cabinet will be reported back to the next meeting of council assembly. When considering a motion, cabinet can decide to:
 - Note the motion; *or*
 - Agree the motion in its entirety, *or*
 - Amend the motion; *or*
 - Reject the motion.

KEY ISSUES FOR CONSIDERATION

4. In accordance with council assembly procedure rule 2.10(6), the attached motions were referred to the cabinet. The cabinet will report on the outcome of its deliberations upon the motions to a subsequent meeting of council assembly.
5. The constitution allocates responsibility for particular functions to council assembly, including approving the budget and policy framework, and to the cabinet for developing and implementing the budget and policy framework and overseeing the running of council services on a day-to-day basis.
6. Any key issues, such as policy, community impact or funding implications are included in the advice from the relevant chief officer.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Council agenda	Report on the council's website	Lesley John Constitutional Team 020 7525 7228
Link: http://modern.gov.southwark.gov.uk/ieListMeetings.aspx?CId=132&Year=0		

APPENDICES

Number	Title
Appendix 1	Low water pressure in Bermondsey
Appendix 2	East Street market

AUDIT TRAIL

Lead Officer	Ian Millichap, Constitutional Manager		
Report Author	Lesley John, Constitutional Officer		
Version	Final		
Dated	24 May 2016		
Key Decision?	No		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER			
Officer Title	Comments sought	Comments included	
Chief Executive	No	No	
Strategic Director of Environment and Leisure	Yes	No	
Strategic Director of Finance and Governance	No	No	
Director of Law and Democracy	No	No	
Cabinet Member	No	No	
Date final report sent to Constitutional Team	24 May 2016		

APPENDIX 1**LOW WATER PRESSURE IN BERMONDSEY**

Council Assembly:

1. Notes with concern ongoing reports from residents and businesses about low water pressure affecting residents across the borough, which is causing problems for residents with daily essentials, including boilers, showers and washing machines.
2. Further notes that Thames Water has acknowledged that the low pressure is a deliberate strategy to reduce burst water mains in the area.
3. Believes that it is unacceptable that thousands of Southwark residents and businesses, especially those on higher floors, should have to suffer a reduction in water pressure while still being required to pay for a full service.
4. Notes that the council has raised this issue with Thames Water and that Thames Water has apologised for the impact on residents and has agreed to increase water pressure in Rotherhithe following an investigation into over 150 properties in the area.
5. Welcomes the announcement last week from Thames Water that it has increased water pressure in the area following pressure from local councillors and after an additional survey found that the problem was much more extensive than originally thought.
6. Further notes that the council has installed booster pumps in 25 council buildings to improve water pressure.
7. Calls on the cabinet to:
 - ensure that all residents living in blocks where the council is the freeholder also benefit from this return to normal water pressure; and
 - continue working with Thames Water to resolve low water pressure issues for residents across the borough.

EAST STREET MARKET

1. That council assembly celebrates the rich diversity, cultural heritage and many opportunities within the East Street Market, which is one of London's oldest, largest and busiest markets and has been used by local people for decades.
2. That council assembly recognises that improvements are needed to revive the market, to encourage new traders into empty shop units and to create an easier and more sociable shopping experience for the public, including improvements to street cleaning around the market and blocks surrounding East Street.
3. That council assembly welcomes the £207,000 awarded to East Street Market from Southwark Council and the Greater London Assembly (GLA) to regenerate and develop the market.
4. That council assembly calls on the cabinet to work closely with market traders and local businesses to encourage a stronger working partnership and to bring forward improvements to the market which build on the character of the market, encourage growth, and help attract a wider range of customers.

Item No. 21.	Classification: Open	Date: 7 June 2016	Meeting Name: Cabinet
Report title:		Appointments to Outside Bodies 2016/17	
Ward(s) or groups affected:		N/a	
From:		Proper Constitutional Officer	

RECOMMENDATION

1. That the cabinet consider and agree appointments to the outside bodies listed in Appendix A of the report for the 2016/17 municipal year.

BACKGROUND INFORMATION

2. Each year the council makes appointments / nominates individuals to outside bodies.

KEY ISSUES FOR CONSIDERATION

Appointments to outside bodies

3. It is for the cabinet to make appointments to outside bodies in connection with the functions which are the responsibility of the cabinet (e.g. housing, education, social services, regeneration etc).
4. Attached as Appendix A is a list of the outside bodies the cabinet are being recommended to consider appointing to for the 2016/17 municipal year.

Legal implications

5. Appointments to some of the outside bodies may carry risk both corporately and to the individuals appointed. Standards committee at its meeting on 9 November 2011 approved 'Guidance to Members who serve on Outside Bodies' which is intended to help councillors understand their duties when appointed to outside bodies, and how to handle conflicts of interest that may arise. The guidance is available in the Library on the council website.

Community impact statement

6. The council is being invited to make nominations to various outside bodies. The nominations process has no direct impact on the community.

Consultation

7. The political group whips have been consulted on the issues contained in the report and have been invited to submit nominations.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
Appendix A	Appointments to outside bodies 2016/17

AUDIT TRAIL

Lead Officer	Ian Millichap, Proper Constitutional Officer	
Report Author	Paula Thornton, Constitutional Officer	
Version	Final	
Dated	25 May 2016	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Democracy	No	No
Strategic Director of Finance and Governance	No	No
Date final report sent to Constitutional Team		25 May 2016

APPENDIX A

APPOINTMENTS TO OUTSIDE BODIES 2016/17

Name	Purpose	No. of places	Notes
Age UK London	To promote the welfare of the aged in any manner that may be deemed by law to be charitable within Greater London.	1	(Adult social care function)
Better Bankside Board	To improve the quality of the Bankside environment, further develop the potential draw of the area, increase the sense of security and ensure that better and sustainable maintenance and management arrangements are put in place.	1	(Regeneration function) Councillor or officer.
Blue Bermondsey BID Board	<p>To help tackle street crime and anti-social behaviour.</p> <p>To offer access to free recycling services to local businesses.</p> <p>To engage the local community to report on areas of grime to ensure streets stay clean.</p> <p>To work with local business support organisations to try and get local people into jobs.</p> <p>To work with local schools to get young people involved in apprenticeships and works schemes.</p>	1	(Community safety function)
Canada Water Consultative Forum	The forum is responsible for advising on the overall direction of development proposals and ensuring public awareness and involvement in the development proposals.	4	(Regeneration function)

Name	Purpose	No. of places	Notes
Central London Forward	To provide a cross-sector 'voice for central London'. It operates at a strategic level, seeking to influence policy makers on matters of mutual interest to the communities and businesses of central London.	1	(Regeneration function) Must be the Leader of the Council.
Centre for Literacy in Primary Education	Professional development and family learning centre. Provides a range of education support, advisory and direct delivery services to schools and families throughout Southwark.	1	(Education function)
Creation Trust	The Creation Trusts key aims are; <ul style="list-style-type: none"> • Engaging the community within the regeneration programme. • Tackling issues around skills and training, young people and health and wellbeing. 	3	(Regeneration function)
Cross River Board	To deliver cross-borough regeneration initiatives north and south of the River Thames in the London Boroughs of Southwark and Lambeth, the Corporation of London and the City of Westminster.	1	(Regeneration function) Usually the leader or cabinet member for regeneration.
Crystal Palace Community Development Trust	Trust set up to oversee the development of the Crystal Palace area.	1	(Regeneration function)
Greater London Enterprise Limited	To assist, promote, encourage and secure the physical and economic development and regeneration of the whole or any part of Greater	1	(Regeneration function) Does not have to be a councillor.

Name	Purpose	No. of places	Notes
	London.		
Groundwork London, Local Authority Strategic Input Board	<p>The Local Authority Strategic Input Board enables Local Authorities to shape the strategic direction of Groundwork within Local Authorities by:</p> <ul style="list-style-type: none"> • Advising Groundwork on the regeneration needs of local communities. • Providing input to the development process for projects and programmes. • Developing and maintaining close relationships with elected members and officers of local authorities. • Developing relationships with other key local partners. 	1	(Regeneration function)
Guys and St Thomas NHS Foundation (Council of Governors)	<p>To advise the trust on how it carries out its work so that it is consistent with the needs of the members and wider community.</p> <p>The governors:</p> <ul style="list-style-type: none"> • help the trust to carry out its duties in ways that meet with NHS values and the terms agreed with Monitor, the independent regulator for NHS Foundation Trusts • advise the trust on its longer term strategy • provide advice and support to the Board of Directors, who are responsible for the overall management of the trust. 	1	(Health function)

Name	Purpose	No. of places	Notes
Kings College Hospital NHS (Council of Governors)	Their vision is to become a fundamentally new kind of hospital built around patient need, offering patients the highest quality of care, and to deliver this as part of a joined-up and well-managed healthcare system, built in partnership with GPs and other healthcare providers.	1	(Health function)
Lendlease Board	<p>To work together in the delivery of the Southwark Construction Skills Centre ("the Centre").</p> <ul style="list-style-type: none"> • Establish a centre of construction training excellence for the local construction industry • Deliver high quality construction skills training • Inspire local school age children to pursue a career in the construction industry • Provide pathways into employment in the construction industry for local people, by increasing the employment and training opportunities in the sector for the borough's residents, as well as helping the local construction industry meet their skills needs • Provide a visible 'front door' to enable local people to find new skills and employment opportunities within the construction sector. 	1	<p>(Regeneration/employment and education function)</p> <p>Cabinet or deputy cabinet member.</p>
London Road Safety Council (LRSC)	To reduce the number of road accident casualties within Greater London and provide a means of	2	<p>(Community safety function)</p> <p>Up to two elected members</p>

Name	Purpose	No. of places	Notes
	communication relating to road accident prevention between London local authorities, central government and other organisations.		and an officer from road safety education.
London Youth Games Limited	The London Youth Games Limited organise the annual London Youth Games on behalf of the London boroughs. It is a non-profit making company owned and guaranteed by the London boroughs and the City of London Corporation.	1	(Leisure function) One representative and one deputy.
Millwall For All	<p>The objectives of Millwall for All are:</p> <ul style="list-style-type: none"> • To promote equality and diversity in football and other sports at amateur and professional • To promote awareness of equality and diversity in primary schools in Lewisham and Southwark • To develop active programmes and partnerships designed to promote equality and diversity in football and build community cohesion • To raise funds for equalities programmes • To represent the boroughs of Lewisham and Southwark on equalities and diversity in football • To publicise the work being done by Millwall Football Club to tackle 	1	(Equalities and Diversity function)

Name	Purpose	No. of places	Notes
	racism and promote equalities and community cohesion.		
North Southwark Environment Trust	<p>The preservation and conservation of the environment for the benefit of the public, including the promotion of energy efficiency and efficient methods of disposing of waste.</p> <p>The provision of facilities for education, recreation or other leisure time occupation, in the interests of improving the conditions of life of the inhabitants covered by the area of benefit.</p>	1	<p>(Environment function)</p> <p>Does not have to be a councillor.</p> <p>The area of benefit covered by the trust is north of the roads known as Camberwell New Road, Camberwell Church Street, Peckham Road, Peckham High Street and Queens Road.</p>
Potters Fields Park Management Trust	Potters Fields Park Management Trust leases the park for events, functions and other activities in order to provide funds for maintenance, and to develop programmes which educate and engage with the community.	2	<p>(Leisure function)</p> <p>Does not have to be a councillor.</p>
South Bank Partnership	Engagement with South Bank employers groups, local MPs and community organisations in North Lambeth and Southwark (Bankside).	4	<p>(Arts and culture function)</p> <p>One representative and local ward councillors.</p>
South Bank and Bankside Cultural Quarter Directors Board	To work with the community to celebrate the richness and diversity of cultural activity in the quarter and across London and engage with local communities.	1	<p>(Arts and culture function)</p>

Name	Purpose	No. of places	Notes
South Bermondsey Big Local Partnership Steering Group	The Partnership informs and guides the development and delivery of the BIG Local programme for South Bermondsey and Livesey wards.	2	(Community engagement function) Currently one Livesey and one South Bermondsey ward councillor.
South London Gallery Trustee Limited	To act as trustees and director of South London Gallery Trustee Ltd (the sole trustee of the South London Fine Art Gallery and Library Trust), which operates the South London Gallery as a public contemporary art gallery. Southwark Council is a major funder of the gallery but trustees must act solely in the best interests of the charity and are responsible for controlling the management and administration of the charity in line with the governing document.	3	(Arts and culture function)
South London and Maudsley (SLaM) NHS Trust Members Council	To support the board of directors in setting the longer-term vision for the trust and to influence proposals to make changes to services and to act in a way that is consistent with NHS principles and values and the terms of the trust's authorisation.	1	(Health function)
Southwark and Lambeth Archaeological Excavation committee (SLAEC)	The SLAEC is an advisory body established to promote archaeological work in Southwark and to advance the knowledge of the history of Southwark and Lambeth by archaeological investigation.	1	(Leisure function) One representative and one deputy.
Southwark Cathedral Education Centre	The Education Centre exists to help teachers cover the curriculum for	1	(Education function)

Name	Purpose	No. of places	Notes
	primary and secondary education in imaginative ways, while playing its part in the Cathedral's outreach and mission and presenting the Cathedral as a place of worship.		
Safer Neighbourhood Board (Southwark)		1	(Community safety function) Cabinet member with community safety portfolio
Waterloo Quarter Business Alliance – Southwark (Business Improvement District)	To create a safer and more pleasant trading environment for businesses and to promote the area to bring in more visitors, whilst maintaining its individuality and unique character.	1	(Regeneration function) Usually a ward councillor.

Item No. 22.	Classification: Open	Date: 7 June 2016	Meeting Name: Cabinet
Report title:		Nominations to Panels, Boards and Forums 2016/17	
Ward(s) or groups affected:		N/a	
From:		Proper Constitutional Officer	

RECOMMENDATIONS

1. That the cabinet agrees the allocation of places to the panels and boards and forums set out in Appendix A of the report for the 2016/17 municipal year and nominates members accordingly.
2. That the cabinet considers whether to appoint a chair and vice-chair to the following body from amongst those individuals appointed to serve:
 - Standing Advisory Council on Religious Education

BACKGROUND INFORMATION

3. It is for the cabinet to agree the allocation of places to panels, boards and forums in connection with the functions that are the responsibility of the cabinet (i.e. housing, education, social services, regeneration etc).

KEY ISSUES FOR CONSIDERATION

Proportionality

4. Appendix A sets out the detail of those, panels, boards and forums for which nominations are required for the 2016/17 municipal year. There is no requirement that appointments to panels, boards and forums are proportionate and in the past, where the allocation of seats has been proportionate, this has been done by local agreement.
5. There is no requirement that a seat allocated to a particular group can only be filled by a member of that group. Therefore groups have the discretion to allocate seats as they wish, including to a member of another group or an individual councillor.

Appointment of chairs and vice-chairs

6. In recommendation two, members are asked to consider whether the appointment of the chair and vice-chair of the Standing Advisory Council on Religious Education (SACRE) should be agreed by the cabinet or at the first meeting of the body. If Members are minded to agree the chair and vice-chair at this meeting then names should be given at the time:
 - Standing Advisory Council on Religious Education

7. Currently SACRE appoint the chair and vice-chair.

Establishment of new bodies

8. Members may wish to establish new bodies or recommend that officers look into changing the status of existing bodies. In relation to the creation of new bodies, Members will need to:
- (i) agree new terms of reference
 - (ii) agree the membership and allocation of places
 - (iii) consider whether to appoint the chair and vice-chair.

Community impact statement

9. There are no specific community impact issues arising from the recommendations.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
Appendix A	Nominations to Panels, Boards and Forums 2016/17

AUDIT TRAIL

Lead Officer	Ian Millichap, Proper Constitutional Officer	
Report Author	Paula Thornton, Constitutional Officer	
Version	Final	
Dated	25 May 2016	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES/CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Democracy	No	No
Strategic Director of Finance and Governance	No	No
Date final report sent to Constitutional Team		25 May 2016

NOMINATIONS TO PANELS, BOARDS AND FORUMS 2016/17

JOINT PARTNERSHIP PANEL (TRADE-UNION CONSULTATION)

Summary of Functions	Status	Membership	Politically Proportionate
To provide a member-level trade union consultation forum for dialogue on corporate policy issues and corporate proposals affecting the workforce.	Non statutory	2 Councillors, Human Resources Director, Chief officer team representative, plus accredited Branch Secretaries of Unison, GMB, UCATT & Unite.	N/a

Allocation 2015/16	Proposed Allocation 2016/17	Council Appointment	Comments
2 representatives from the cabinet. In 2015/16 the cabinet members were the leader of the council and cabinet member responsible for human resources.	2 representatives from the cabinet	2 Councillors	None

HOMEOWNERS SERVICE CHARGE ARBITRATION TRIBUNAL

Summary of Functions	Status	Membership	Politically Proportionate
To resolve homeowner disputes related to 2014/15 service charges.	Non statutory	1 Independent chairperson 1 Leaseholder representative 1 Councillor (from pool)	N/a

Allocation 2015/16	Proposed Allocation 2016/17	Council Appointment	Comments
None	Unlimited	Members to act as pool	6 month pilot scheme. Cabinet members are not able to be members of the panel.

TENANCY AND LEASEHOLD ARBITRATION TRIBUNALS

Summary of Functions	Status	Membership	Politically Proportionate
To resolve certain disputes between secure tenants and the council (landlord) arising from a breach within the terms of the Tenancy Agreement. To resolve disputes between Southwark Right to Buy applicants, Southwark Council leaseholders and Residential Freeholders who pay a service charge to Southwark Council.	Non statutory	1 Independent chairperson 1 Tenant or Leaseholder representative 1 Councillor (from pool)	N/a

Allocation 2015/16	Proposed Allocation 2016/17	Council Appointment	Comments
Unlimited.	Unlimited	Members to act as a pool	Cabinet members are not able to be members of the panel.

SOUTHWARK SAFEGUARDING ADULTS BOARD

Summary of Functions	Status	Membership	Politically Proportionate
The purpose of the Board is to ensure that adults can live a life free from abuse and neglect.	Statutory		N/a

Allocation 2015/16	Proposed Allocation 2016/17	Council Appointment	Comments
Cabinet Member for Adult Care and Financial Inclusion	Cabinet Member for Adult Care and Financial Inclusion	1	.

SOUTHWARK SAFEGUARDING CHILDREN'S BOARD

Summary of Functions	Status	Membership	Politically Proportionate
<p>To promote and safeguard the welfare of children.</p> <p>To engage in activities that safeguard all children and aim to identify and prevent maltreatment or impairment of health or development.</p> <p>To ensure that children are growing up in circumstances consistent with safe and effective care.</p> <p>To lead and co-ordinate proactive work that aims to target particular groups and to arrange for responsive work to protect children who are suffering, or likely to suffer significant harm.</p>	Statutory	Senior managers from different services and agencies including independent and voluntary sector.	N/a

Allocation 2015/16	Proposed Allocation 2016/17	Council Appointment	Comments
Cabinet Member for Children and Schools	Cabinet Member for Children and Schools	1	Cabinet Member for Children and Schools to be participant observer.

STANDING ADVISORY COUNCIL ON RELIGIOUS EDUCATION

Summary of Functions	Status	Membership	Politically Proportionate
To review the existing provision of Religious Education and consider whether any changes need to be made in the agreed syllabus or in support offered to schools. To monitor the provision of the daily collective worship and to consider any action to improve such provision.	Statutory	4 Councillors Plus representatives of local faith groups and Teachers Associations	N/a

Allocation 2015/16	Proposed Allocation 2016/17	Council Appointment	Comments
Labour – 3 Liberal Democrats – 1 Conservatives – 0	Labour – 3 Liberal Democrats – 1 Conservatives – 0	4 Councillors	

SOUTHWARK TENANT MANAGEMENT ORGANISATION COMMITTEE

Summary of Functions	Status	Membership	Politically Proportionate
To discuss with representatives of TMO's issues of mutual interest.	Statutory	4 Councillors TMO Representatives Cabinet Member for Housing	N/a

Allocation 2015/16	Proposed Allocation 2016/17	Council Appointment	Comments
Labour – 3 Liberal Democrats – 1 Conservatives – 0	Labour – 3 Liberal Democrat – 1 Conservative – 0	4 Councillors and Cabinet Member with responsibility for Housing	

CABINET AGENDA DISTRIBUTION LIST (OPEN)**MUNICIPAL YEAR 2016/17**

NOTE: Original held by Constitutional Team; all amendments/queries to
Paula Thornton/Virginia Wynn-Jones Tel: 020 7525 4395/7055

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Stephanie Cryan	1	Deborah Collins	1
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Richard Livingstone	1	Duncan Whitfield	1
Victoria Mills	1	David Quirke-Thornton	1
Johnson Situ	1		
Mark Williams	1	Officers	
Ian Wingfield	1	Doreen Forrester-Brown	1
		Jennifer Seeley	1
Other Councillors		Norman Coombe	1
Gavin Edwards	1	Ruth Wallis	1
Jasmine Ali	1		
Paul Fleming	1	Others	
Tom Flynn	1	Louise Neilan, Press Office	1
Eleanor Kerslake	1	Paula Thornton, Constitutional Officer	10
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